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VIA AIRBORNE EXPRESS

February 28, 1996

Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

960257-WS

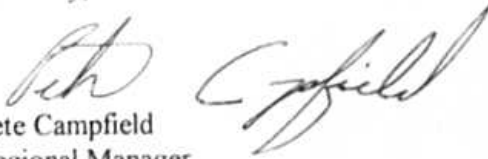
RE: Oaks at Deerwood Apartments, Jacksonville, FL

Dear Sir or Madam:

I have signed and enclosed five (5) sets of the Application For Seller Exemption for the Oaks at Deerwood apartment community.

Please call me if you have any questions. My phone number is (407) 644-6300.

Sincerely,


Pete Campfield
Regional Manager

/prc

cc: Susan Burt (w/enclosure)
Tom Fuehler

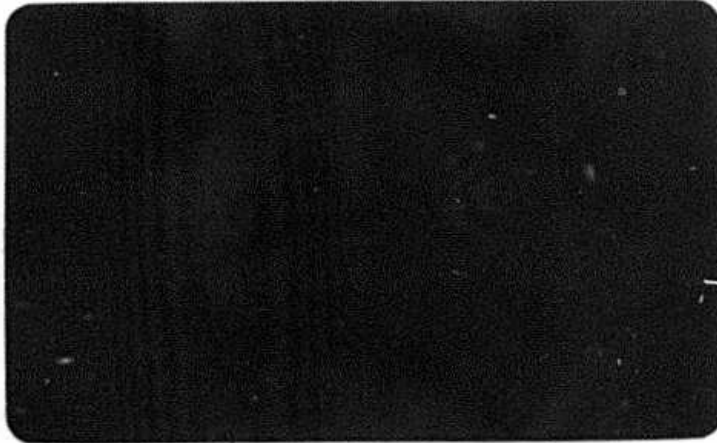
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OAKS AT DEERWOOD

**APPLICATION FOR
RESELLERS EXEMPTION**

APPLICATION FOR RESELLER EXEMPTION

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- III. Copy of Florida State Statutes applicable to this application

APPLICATION FOR RESELLER EXEMPTION
SECTION 367.022 (8), FLORIDA STATUTES
RULE 25-30.060 (3) (H), FLORIDA ADMINISTRATIVE CODE

NAME OF SYSTEM: The Oaks at Baymeadow II Associates D.B.A. The Oaks at Deerwood
Apartments

PHYSICAL ADDRESS OF SYSTEM: 10100 Baymeadows Rd., Jacksonville, FL 32256

MAILING ADDRESS (IF DIFFERENT): N/A

COUNTY: Duval

PRIMARY CONTACT PERSON:

NAME: Mr. Peter Campfield
ZOM Residential Services, Inc.
ADDRESS: 2269 Lee Road
Winter Park, FL 32789-1865
PHONE #: 407-644-6300

NATURE OF APPLICANT'S BUSINESS ORGANIZATION: (CORPORATION, PARTNERSHIP,
SOLE PROPRIETOR, ETC.) Partnership

I believe this system to be exempt from the regulation of the Florida Public Service
Commission pursuant to Section 367.022 (8), Florida Statutes, for the following reasons:

1. Service is provided at a rate or charge that does not exceed the actual purchase price.
2. Reseller is aware of the requirements of Rule 25-30.111, Florida Administrative Code, regarding annual reporting requirements. (Rule attached)
3. Reseller is aware of the requirements of Section 367.122, Florida Statutes, which deals with examination and testing of meters; and Rules 25-30.262 through 25-30.267, Florida Administrative Code, which explains the responsibilities of the utility owner for insuring the accuracy of the meters. (Statutes and Rules attached)
4. The utility services provided are:
Water _Yes_ (Yes or No) Wastewater _Yes_ (Yes or No)

For utility service not provided, state how handled: N/A

APPLICATION FOR RESELLER EXEMPTION

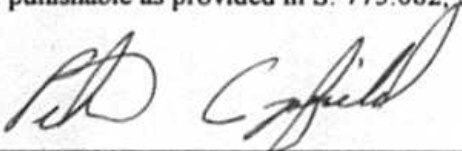
5. The service area is located at: 10100 Baymeadows Road, Jacksonville, FL 32256
6. The City of Jacksonville, Public Utilities Department (name of utility) provides service to the Reseller.
7. Attached are current rates and charges of the provider in 6 above.
8. Attached is a schedule of the reseller's proposed rates and charges.
9. Attached is an explanation of the proposed method of billing customers separately, for both water and wastewater.
10. Attached is a schedule showing that the amount billed will not exceed the amount paid for water, wastewater or both.
11. Attached is an explanation of the agreement between the reseller and the billing company ensuring that the reseller controls customer deposits.
12. Attached is an explanation of the reseller's policy for allocating the cost of water for the common areas.
13. Attached is an explanation of the reseller's policy for miscellaneous fees and charges. If the reseller is using a billing company, specifically state how the costs for those services will be paid.
14. Residents will be billed within 3 days after the meters have been read.
15. If the residential complex is still under construction, the expected occupancy date is on or before: N/A

Attached is Rule 25-30.111, Florida Administrative Code, which explains the annual reporting requirement of resellers. Also, attached is Section 367.122, Florida Statutes, which explains the responsibility of the reseller to examine and test meters. Rules 25-30.262 through 25-30.267, Florida Administrative Code, expand on the reseller's responsibilities for meter accuracy, meter test methods, meter testing equipment, periodic meter tests, meter tests by request and recordation of meter tests. The attached rules should be read, as acknowledged on the application, and retained by the Reseller.

APPLICATION FOR RESELLER EXEMPTION

I am aware that pursuant to Section 837.06, Florida Statutes, whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in S. 775.082, S. 775.083, S. 775.084.

February 28, 1996
(Date)


Applicant's Signature **

Mr. Peter Campfield
Applicant's Name (Typed or Printed)

Regional Property Manager
Applicant's Title

** If applicant is not the **Owner** of property for which the exemption is being requested, a Letter of Authorization from the **Owner** must be attached to application.

When you finish filling out the application, the original and four copies of the application and all attachments should be mailed to:

**Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850**



MBL Life Assurance Corporation

6525 The Corners Parkway, Suite 303, Norcross, GA 30092
770-441-0146 Fax 770-441-2548

Real Estate Investments Division

January 8, 1996

Director
Division of Records and Reporting
Florida Public Service Commission
Capital Service Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: Application of The Oaks at Baymeadows II Associates, D/B/A Oaks at Deerwood Apartments, Jacksonville, FL for Exemption from Public Service Commission Regulation.

Dear Sir or Madam:

By way of this letter, and in my capacity as Senior Vice President for The Oaks at Baymeadows II Associates, D/B/A The Oaks at Deerwood Apartments, I am granting Peter R. Campfield, in his capacity as Regional Manager for ZOM Residential Services, Inc., the authority to sign the above captioned application.

Please call me if you have any questions. My phone number is (201)481-8856.

Sincerely,


Mark Mahony
Senior Vice President

ATTACHMENT I

**CITY OF JACKSONVILLE
DEPARTMENT OF PUBLIC UTILITIES
WATER AND SEWER RATES**



Customers of the City of Jacksonville's municipally owned water and sewer system pay operations, maintenance and replacement of the system through monthly user charges. In an effort to keep you informed of how you are billed each month for water and sewer services, we have listed below the rates and charges for our customers. These rates were adopted by the Jacksonville City Council in April 1993 and will become effective April 1995.

**MONTHLY SERVICE USE RATES
Base Fee Portion All Customers**

<u>Meter Size</u>	<u>Water</u>	<u>Sewer</u>	<u>Meter Size</u>	<u>Water</u>	<u>Sewer</u>
5/8"	\$ 7.80	\$ 3.30	4"	\$ 106.40	\$ 82.70
3/4"	\$ 9.80	\$ 5.00	6"	\$ 209.20	\$ 165.50
1"	\$ 14.00	\$ 8.30	8"	\$ 332.30	\$ 264.70
1 1/2"	\$ 24.30	\$ 16.60	10"	\$ 476.10	\$ 380.50
2"	\$ 36.60	\$ 26.50	12"	\$ 886.80	\$ 711.30
3"	\$ 69.50	\$ 52.90	20"	\$ 1,853.00	\$ 1,488.70

(OVER)

**VOLUME CHARGES (per ccf)
(1 ccf = 100 cubic feet = 748 gallons)**

WATER Commercial Customer	WATER Residential Customer	WATER Irrigation Customer
5/8" - 8" Meter usage \$0.58	1 - 15 ccf usage \$0.53	1 - 30 ccf usage \$0.67
10" - 20" Meter usage \$0.43	16 - 30 ccf usage \$0.67	over 30 ccf usage \$0.88
	over 30 ccf usage \$0.88	

**SEWER
Commercial/Residential Customer
Usage \$2.81**

EXAMPLE #1

Residential customer with 5/8" meter

consumes 800 Cu. Ft. of water

Water = \$7.80 + (8 x \$0.53) = \$ 12.04

Sewer = \$3.30 + (8 x \$2.81) = 25.78

10% Public Service Tax = \$ 1.20

Total \$39.02

EXAMPLE #2

Residential customer with 5/8" meter

consumes 2000 Cu. Ft. of water

Water = \$7.80 + (15 x \$0.53) + (5 x \$0.67) = \$ 19.10

Sewer = \$3.30 + (20 x \$2.81) = 59.50

10% Public Service Tax = \$ 1.91

Total \$80.51

Residential sewer charges are based on actual water usage up to a maximum of 3000 cubic feet per month for October Through March. April Through September sewer charges are based on ninety percent of actual water usage up to the above maximum to account for watering of lawns, gardens, etc.

ATTACHMENT II

The proposed water and sewer rates and charges for the tenants of the Oaks at Deerwood Apartment community will not exceed the current rates and charges of the City of Jacksonville Public Utilities Department (suppliers to the Oaks at Deerwood). This property is classified as multi-family and lies within the city limits. As part of the resellers rates and charges schedule, we propose the following for consideration.

WATER Minimum base charge

The City of Jacksonville Utilities charges their multi-family users a base charge for water according to meter size. There are two six inch dual range service meters, each meter has a fixed base charge of \$ 209.20 or a total of \$ 418.40. By dividing the total number of apartment units (336) into the \$ 418.40 results in a \$ 1.25 per unit base charge, this would then be considered the minimum water base charge per apartment.

Metered consumption

There is no minimum or maximum usage. All consumption is measured in 100 cubic feet (ccf's) at a rate of \$ 0.58 per ccf of usage. There is a Utility tax of ten percent (10%) on all metered water consumption and the base water meter charge.

SEWER Minimum base charge

The City of Jacksonville Utilities charge their sewer users a base charge according to meter size. There are two six inch service meters, each meter has a base charge of \$ 165.50 or a total of \$ 331.00. By dividing the total number of apartments units (336) into the \$ 331.00 results in a \$ 0.99 per unit base charge. This would then be considered the minimum base charge for sewer per apartment.

Metered consumption

There is no minimum or maximum usage. The charge for all sewer is at \$ 2.91 per ccf of usage. There is no utility tax on sewer charges.

ATTACHMENT III

Proposed method of billing

The existing plumbing infrastructure, in each building, at The Oaks at Deerwood apartments is not conducive to the installation of individual water sub-meters in each apartment. The cold water supply line in each building is randomly distributed to each apartment and therefore the individual apartments have multiple supply lines. Because of this situation we are proposing an **allocation** system for billing the individual apartments.

Upon receiving the master meter bills from the City of Jacksonville, the following allocation will take place. In order to be fair and equitable to the resident the total consumption from the two dual range meters would be added together and then **reduced** by five percent (5%) to cover **common** water usage. The balance, 95%, would then be the basis of allocation. Each of the 336 apartments will be charged a minimum base water and sewer charge as indicated in attachment II, (\$ 1.25 for water and \$ 0.99 for sewer). The allocation of water and sewer consumption will be based upon the number of bathrooms in each apartment. The Oaks at Deerwood apartments contains one and two bathroom apartments (196 one bathrooms and 140 two bathrooms) for a total of 476 bathrooms. The total consumption, minus 5%, would be divided by the average number of residents on a per bathroom basis (see attachment IV). The consumption rates from attachment I would be applied for both water and sewer. The appropriate taxes will be calculated accordingly. Each month an individual bill will be calculated for each apartment according to the number of bathrooms and mailed to the resident. The resident will be expected to pay the amount registered on the bill.

In no case will the total billed to the residents ever exceed the total billed by the City of Jacksonville Utilities to The Oaks at Deerwood apartments. All vacant units will be the responsibility of the owner (Oaks at Deerwood).

ATTACHMENT IV

Typical Rate Schedule

Below is an actual billing received from The City of Jacksonville Utilities for The Oaks at Deerwood apartments and the resulting sample individual tenant bill. The actual bills are enclosed as **exhibit 'A'**.

Actuals

1. Total consumption from two master meters = 218,100 cf
2. $218,100 \times .95 = 207,195$ cf for allocation
3. Base charges for water & sewer are divided by the total number of apartments (336).
4. Allocated consumption is divided by the total number of residents (457) in all 336 apartments units.
5. The Oaks at Deerwood contains 196 one bath units and 140 two bath units. Lease statistics show that the average number of residents in a one bath unit are 1.14 persons and the average in a two bath unit are 1.67 persons.
6. Utility tax is applied to water consumption and water base charges.

The Oaks at Deerwood Meter Bills

Meter # 1 Consumption	83,400 cu. ft.	
Meter # 1 Water charge	\$ 692.92	(includes base chg.)
Sewer charge	2,509.04	(includes base chg.)
Public Ser. Tax	<u>69.29</u>	
Total Bill	\$3,271.25	
Meter # 2 Consumption	134,700 cu.ft.	
Meter # 2 Water charge	\$ 990.46	(includes base chg.)
Sewer charge	3,950.57	(includes base chg.)
Public Ser. Tax	<u>99.05</u>	
Total Bill	\$5,040.08	

Total of Meters # 1 & # 2 **\$ 8,311.33**

Individual tenant bills (one and two bathrooms)

Basis of calculations:

1. The base charge for both water and sewer is divided by the total number of apartments (336) and assigned to each apartment as the monthly fixed charge.
2. The consumption is divided by the total number of residents (457).

ATTACHMENT IV

(continued)

3. The Oaks at Deerwood contains:
 - 196 one bathroom apartments w/an avg. occupancy of 1.14 residents
 - 140 two bathroom apartments w/an avg. occupancy of 1.67 residents
4. The total fixed charge for water is \$ 418.40 and sewer is \$ 331.00 or a total of \$ 749.40. Divide \$ 749.40 by the 336 apartments = \$ 2.23 per apartment per month.
5. The total consumption of 218,100 cu. ft. is reduced by 5% to 207,195 cu. ft. and divided by total number of residents (457) or 2071.95 divided by 457 = 4.53 ccf per resident.

Using these guide lines for calculations the various apartment bathroom configurations would be billed accordingly. Each one bathroom unit would be billed for water at 4.53 ccf x 1.14 x \$ 0.58 and for sewer, 4.53 ccf x 1.14 x \$ 2.91. Each two bathroom unit would be billed for water at 4.53 ccf x 1.67 x \$ 0.58 and for sewer at 4.53 ccf x 1.67 x 2.91.

The individual apartments would be billed as follows:

One bathroom	Fixed charge	\$ 2.23	(water and sewer)
	Water charge	2.99	
	Tax	.52	
	Sewer	15.02	
	Total bill		\$ 20.76
Two bathroom	Fixed charge	\$ 2.23	(water and sewer)
	Water charge	4.39	
	Tax	.66	
	Sewer	22.03	
	Total bill		\$ 29.31

Accountability

196 one bathrooms x \$ 20.76 =	\$ 4,068.96	
140 two bathrooms x \$ 29.31 =	4,103.40	
Total all apartments		\$ 8,172.36
Total of master bills		8,311.33

Total resident bills do not exceed the total master metered bills.

PUBLIC UTILITIES DEPARTMENT

21 WEST CHURCH STREET, JACKSONVILLE, FLORIDA 32202-3139 • (904) 632-5200



EXHIBIT A

METER NUMBER: 17
 ACCOUNT NUMBER: 11820-10100-0000-6-00-W
 BILL DATE: 5/25/95

SERVICE ADDRESS: 10100 BAYMEADOWS RD

RATE: 1

COMMERCIAL WITH APARTMENTS

CONSUMPTION HISTORY

MAY 1995	134,700 CU FT
MAY 1994	185,400 CU FT
APRIL 1995	163,200 CU FT
APRIL 1994	95,600 CU FT

**CR 51

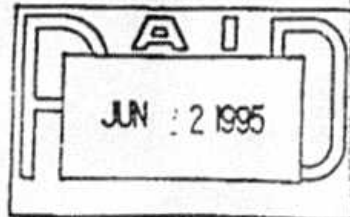
OAKS AT BAYMEADOWS II
 ASSOC LTD
 10100 BAYMEADOWS RD
 JACKSONVILLE FL 32256

ADDITIONAL INFORMATION ON REVERSE SIDE

METER NUMBER	READ DATE	DAYS BILLED	CURRENT READING	READING TYPE	AMT/FEE	CONSUMPTION	AVERAGE DAILY CONSUMPTION COST
2001411326	5/19	30	4339	REGULAR	6	134,700 CU FT	\$168.00
4001411326	5/19	30	20	REGULAR	6	0 CU FT	

MONDAYS AND DAYS AFTER HOLIDAYS ARE TRADITIONALLY VERY BUSY DAYS. WE WILL BE BETTER ABLE TO RESPOND TO YOUR NEEDS IF YOU CONTACT OUR OFFICES ON OTHER DAYS.

THANK YOU FOR HELPING US SERVE YOU BETTER.



PREVIOUS BALANCE.....	\$ 14,580.82
WATER CHARGE.....	990.48
SEWER CHARGE.....	3,950.57
PUBLIC SERVICE TAX.....	99.05
REBATE AMOUNT.....	14,580.82

ACT- 5215
 Pat C. [Signature]
 2/12/95

TOTAL DUE

\$5,040.08

BY 6/16/95 TO AVOID
 1.5% LATE PAYMENT FEE

PLEASE INDICATE ADDRESS CORRECTION BELOW

PUBLIC UTILITIES DEPARTMENT

21 WEST CHURCH STREET, JACKSONVILLE, FLORIDA 32202-3139 • (904) 632-5200



EXHIBIT A

METER	ACCOUNT NUMBER	BILL DATE
17	11820-10100-0001-5-01-W	5/25/95

SERVICE ADDRESS
10100 BAYMEADOWS RD APT 1

RATE
COMMERCIAL WITH APARTMENTS

OAKS AT BAYMEADOWS II
10100 BAYMEADOWS R
JACKSONVILLE FL 32258

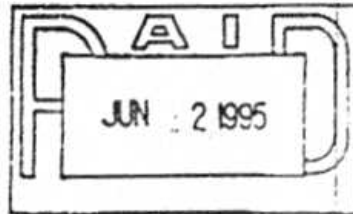
CONSUMPTION HISTORY		
MAY 1995		83,400 CU FT
MAY 1994		1,000 CU FT
APRIL 1995		75,700 CU FT
APRIL 1994		19,500 CU FT

ADDITIONAL INFORMATION ON REVERSE SIDE

METER NUMBER	READ DATE	DAYS BILLED	CURRENT READING	READING TYPE	METER RATE	CONSUMPTION	AVERAGE DAILY CONSUMPTION COST
2001411104	5/19	30	0	REGULAR	6	0 CU FT	\$109.04
4001411104	5/19	30	108	REGULAR	6	83,400 CU FT	

MONDAYS AND DAYS AFTER HOLIDAYS ARE TRADITIONALLY VERY BUSY DAYS. WE WILL BE BETTER ABLE TO RESPOND TO YOUR NEEDS IF YOU CONTACT OUR OFFICES ON OTHER DAYS.

THANK YOU FOR HELPING US SERVE YOU BETTER.



WATER CHARGE	5	692
SEWER CHARGE		2,509
PUBLIC SERVICE TAX		69

Acct. 5235
Pete C. [Signature]
6/12/95

PLEASE INDICATE ADDRESS CORRECTION BELOW

TOTAL DUE
BY 6/16/95 TO AVOID
1.5% LATE PAYMENT FEE

\$3,271.56

ATTACHMENT V

The Oaks at Deerwood apartments will not require deposits from the tenants for sewer and water services.

ATTACHMENT VI

Common water usage **will not** be billed to the tenants of The Oaks at Deerwood.

ATTACHMENT VII

The Oaks at Deerwood apartments policy for additional fees and charges shall be as follows:

1. **Late fees** A \$ 5.00 late fee will be charged to any tenant that pays their bill past the posted due date.
2. **Non-sufficient funds fee** Any tenant who's check is returned from the bank for lack of funds will be charged a NFS fee of \$ 25.00.
3. The Oaks at Deerwood apartments **will use** the services of a billing company. The costs associated with this service will be paid by the reseller to the billing company. Under no circumstances will cost of the billing service be charged to the tenants.

CHAPTER 25-30.111, F.A.C.
EXEMPTION FOR RESALE OF UTILITY SERVICE, ANNUAL REPORT

Any person who has been granted an exemption from regulation as a reseller of water or wastewater service provided for in subsection 367.022(8), F.S., shall file a report by March 31 of each year following the year for which the exemption is claimed. The report shall contain the following:

(1) A schedule, listing by month, the rates charged for and total revenue received from the water or wastewater service sold.

(2) A schedule, listing by month, the rates charged and total expense incurred for the purchase of the water or wastewater service.

(3) A statement listing the source from which the water or wastewater service was purchased.

Specific Authority: 367.121(1), F.S.

Law Implemented: 367.022(8), F.S.

History: New 3/26/81, Formerly 25-10.09, 25-10.009, Amended 11/9/86, 11/30/93.

CHAPTER 25-30.262, F.A.C.
METER ACCURACY REQUIREMENTS

Each utility shall employ water meters which register within the accuracy limits set forth in this chart:

Accuracy limits in percentages

<u>Meter Type</u>	<u>Maximum Rate</u>	<u>Intermediate Rate</u>	<u>New</u>	<u>Minimum Rate Repaired</u>
Displacement	98.5-101.5	98.5-101.5	95-101.5	90-101.5
Current	97 -102	None	95-102	90-102
Compound *	97 -103	97 -103	95-103	90-103

* The minimum required accuracy for compound meters at any rate within the "changeover" range of flows shall be 85%.

General Authority: 367.121, F.S.

Law Implemented: 367.122(1), F.S.

History: Amended 9/12/74, formerly 25-10.92, Transferred from 25-10.092 and Amended 11/9/86.

CHAPTER 25-30.264, F.A.C.
METER TESTING EQUIPMENT

- (1) (a) Each utility providing metered water service shall either provide the necessary standard facilities, instruments and other equipment for testing meters in compliance with rules 25-30.263, or enter into arrangements with other utilities or agencies for the testing of the utility's meters.
- (b) When the utility opts to arrange for its testing to be performed by another utility or agency, that utility shall notify the Commission.
- (2) (a) Standard meters may be used by the utility for field tests of meter accuracy provided that they are tested and calibrated to permit the testing of meters within the limits of accuracy set out in Rule 25-30.263.
- (b) Testing and calibration of the standard meters shall be done either by the utility with its volumetric or weight standard equipment, or by an approved laboratory.
- (c) Testing and calibration of the standard meters shall be done at least once every sixty (60) days while the standard meter is in use.

General Authority: 367.121(1), F.S.

Law Implemented: 367.122(1), F.S.

History: Amended 9/12/74, formerly 25-10.89, Transferred from 25-10.089 and Amended 11/9/86.

CHAPTER 25-30.266, F.A.C.
METER TEST BY REQUEST

(1) (a) Upon written request of any customer whose meter has not been tested within one-half the maximum interval provided in Rule 25-30.265, the utility shall make a field test for accuracy of that customer's meter.

(b) The utility may not charge for any field test performed pursuant to paragraph (a) of this subsection.

(2) (a) The utility may require a deposit to defray cost of any bench test requested by any customer. However, the deposit may not exceed the following schedule:

Meter Size (inches)	Fee
5/8 and 3/4	\$20.00
1 and 1-1/2	\$25.00
2 and over	Actual Cost of Test

(b) The utility may retain the deposit if the customer's meter is found to register accurately or below accuracy.

(c) The utility shall refund the deposit if the customer's meter is found to register in excess of prescribed accuracy limits.

(3) The Commission may provide a representative to observe or supervise any bench test upon written request from the customer or utility. The utility shall advise the customer of the customer's right to witness the bench test.

(4) The utility shall provide the customer with a written report of the results of any test performed pursuant to this rule.

(5) A meter shall in no way be disturbed after the utility has received notice that application has been made for a test by the customer unless a representative of the Commission is present or unless authority to do so is first given in writing by the Commission or by the customer.

(6) At the request of the customer, the utility shall make arrangements for a meter test to be conducted by an independent meter testing facility of the customer's choosing. The customer shall be responsible for negotiating and paying to the independent meter testing facility any fee charged for such a test. Such independent meter testing facilities shall, at minimum, conform to the requirements of the American Waterworks's Association Water Meters Selection Installation Testing and Maintenance (AWWA-M6-1972). Where appropriate, the meter may be field tested. The customer shall be responsible for all the costs to the utility associated with a meter test by an independent meter testing

CHAPTER 25-30.267, F.A.C.
RECORD OF METER TESTS

(1) Each utility shall preserve the original records of all meter tests at least until same meter is performed or until the meter is retired by a later test.

- (2) These records shall include
- (a) sufficient information to identify the meter;
 - (b) the reason for the test;
 - (c) date of test and reading of the meter;
 - (d) the computed accuracy before and after the repair;
and
 - (e) any other data taken at the time of the test which would permit the convenient checking of the test results.

General Authority: 367.121, F.S.

Law Implemented: 367.122, F.S.

History: Amended 9/12/74, formerly 25-10.91, Transferred from 25-10.091 and Amended 11/9/86.

ATTACHMENT A

**SECTION 367.021, FLORIDA STATUTES
DEFINITIONS**

As used in this chapter, the following words or terms shall have the meanings indicated:

(1) "Certificate of authorization" means a document issued by the commission authorizing a utility to provide service in a specific service area.

(2) "Commission" means the Florida Public Service Commission.

(3) "Contribution-in-aid-of-construction" means any amount or item of money, services, or property received by a utility, from any person or governmental authority, any portion of which is provided at no cost to the utility, which represents a donation or contribution to the capital of the utility, and which is used to offset the acquisition, improvement, or construction costs of the utility property, facilities, or equipment used to provide utility services.

(4) "Corporate undertaking" means the unqualified guarantee of a utility to pay a refund and pay interest connected therewith which may be ordered by the commission at such time as the obligation becomes fixed and final.

(5) "Domestic wastewater" means wastewater principally from dwellings, business buildings, institutions, and sanitary wastewater or sewage treatment plants.

(6) "Effluent reuse" means the use of wastewater after the treatment process, generally for reuse as irrigation water or for in-plant use.

(7) "Governmental authority" means a political subdivision, as defined by s. 1.01(8), or a regional water supply authority created pursuant to s. 373.1962.

(8) "Industrial wastewater" means wastewater not otherwise defined as domestic wastewater, including runoff and leachate from areas that receive pollutants associated with industrial or commercial storage, handling, or processing.

(9) "Official date of filing" means the date upon which it has been determined, pursuant to s. 367.083, by the commission that the utility has filed with the clerk the minimum filing requirements as established by rule of the commission.

ATTACHMENT B

**SECTION 367.022, FLORIDA STATUTES
EXEMPTIONS**

The following are not subject to regulation by the commission as a utility nor are they subject to the provisions of this chapter, except as expressly provided:

- (1) The sale, distribution, or furnishing of bottled water;
- (2) Systems owned, operated, managed, or controlled by governmental authorities;
- (3) Manufacturers providing service solely in connection with their operations;
- (4) Public lodging establishments providing service solely in connection with service to their guests;
- (5) Landlords providing service to their tenants without specific compensation for the service;
- (6) Systems with the capacity or proposed capacity to serve 100 or fewer persons;
- (7) Nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives; and
- (8) Any person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price thereof, if such person files at least annually with the commission a list of charges and rates for all water service sold, the source and actual purchase price thereof, and any other information required by the commission to justify the exemption; but such person is subject to the provisions of s. 367.122.
- (9) Wastewater treatment plants operated exclusively for disposing of industrial wastewater.

History.—

s. 1, ch. 71-278; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 3, 25, 26, ch. 80-99; ss. 2, 3, ch. 81-318; ss. 3, 26, 27, ch. 89-353; s. 1, ch. 90-166; s. 4, ch. 91-429.

ATTACHMENT C

**CHAPTER 25-30.060, F.A.C.
APPLICATION FOR EXEMPTION FROM REGULATION
OR NONJURISDICTIONAL FINDING**

(1) Each application for an exemption shall be filed in original and two copies, with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870. Sample application forms may be obtained from the Division of Water and Wastewater, Bureau of Certification, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

(2) Each application for an exemption from regulation shall contain the following information:

- (a) The name of the system owner;
- (b) The physical address of the system;
- (c) The mailing address of the applicant, if different from the system address;
- (d) The name, address, and phone number of the primary contact person for the exemption request;
- (e) The nature of the applicant's business organization, e.g., corporation, partnership, limited partnership, sole proprietorship, association; and
- (f) A statement that the applicant is aware that pursuant to Section 837.06, Florida Statutes, whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Each application must specifically state which type of exemption is being applied for and contain one of the following:

- (a) For an exemption pursuant to Section 367.022(1), Florida Statutes, a statement from the owner of the system that the system is used solely to provide bottled water and that water is not provided to customers through a water main or service pipe;
- (b) For an exemption pursuant to Section 367.022(2), Florida Statutes, a statement from the governmental authority specifying the statutory authority for the governmental authority; that the system is owned, operated, managed, or controlled by the governmental authority; stating whether it provides water service, wastewater service or both; and specifying the service area. The applicant shall describe with particularity the nature of the ownership, operation, management, and control of the system;

Chapter 25-30.060, F.A.C., continued:

The applicant must provide proof of its ownership of the utility facilities and the land upon which the facilities will be located or other proof of its right to continued use of the land, such as a 99-year lease. The Commission may consider a written easement or other cost-effective alternative;

- (h) For an exemption pursuant to Section 367.022(8), Florida Statutes, a statement from the reseller that service is provided at a rate or charge that does not exceed the actual purchase price; stating that the reseller is aware of the requirements of Rule 25-30.111, Florida Administrative Code; stating that the reseller is aware of the requirements of Section 367.122, Florida Statutes, and Rules 25-30.262, .263, .264, .265, .266 and .267, Florida Administrative Code, relating to examination and testing of meters; stating whether it provides water service, wastewater service or both; and specifying the service area. The reseller must also provide the name of the utility providing service to it and that utility's current rates and charges. The reseller must submit a schedule of all of its proposed rates and charges, an explanation of the proposed method of billing customers, separately, for both water and wastewater, and a schedule showing that the amount billed will not exceed the amount paid for water, wastewater, or both;
- (i) For an exemption pursuant to Section 367.022(9), Florida Statutes, a statement from the owner of the wastewater system that the system is primarily for the treatment of wastewater other than domestic wastewater, such as runoff and leachate from areas that receive pollutants associated with industrial or commercial storage, handling or processing; identifying the principal source or nature of such wastewater; and specifying the service area;
- (j) For a nonjurisdictional finding pursuant to Section 367.021(12), Florida Statutes, a statement from the system owner stating that it does not charge for providing utility service; specifying how operational costs of providing service are treated or recovered; stating whether it provides water service, wastewater service, or both; and specifying the service area.

Specific Authority: 367.121(1), F.S.

Law Implemented: 367.021(12), 367.022, 367.031, F.S.

History: New 1/5/92, Amended 11/30/93.

they subject to the provisions of this chapter, except as expressly provided:

- (1) The sale, distribution, or furnishing of bottled water;
- (2) Systems owned, operated, managed, or controlled by governmental authorities;
- (3) Manufacturers providing service solely in connection with their operations;
- (4) Public lodging establishments providing service solely in connection with service to their guests;
- (5) Landlords providing service to their tenants without specific compensation for the service;
- (6) Systems with the capacity or proposed capacity to serve 100 or fewer persons;
- (7) Nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives; and
- (8) Any person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price thereof, if such person files at least annually with the commission a list of charges and rates for all water service sold, the source and actual purchase price thereof, and any other information required by the commission to justify the exemption; but such person is subject to the provisions of s. 367.122.
- (9) Wastewater treatment plants operated exclusively for disposing of industrial wastewater.

*History.—*s. 1, ch. 71-278, s. 3, ch. 76-168, s. 1, ch. 77-457, ss. 2, 25, 26, ch. 80-22, ss. 2, 3, ch. 81-318, ss. 3, 25, 27, ch. 89-353, s. 1, ch. 90-166, s. 4, ch. 91-429

367.031 Original certificate.—Each utility subject to the jurisdiction of the commission must obtain from the commission a certificate of authorization to provide water or wastewater service or an order recognizing that the system is exempt from regulation as provided by s. 367.022. A utility must obtain a certificate of authorization or an exemption order from the commission prior to being issued a permit by the Department of Environmental Regulation for the construction of a new water or wastewater facility or prior to being issued a consumptive use or drilling permit by a water management district. The commission shall grant or deny an application for a certificate of authorization within 90 days after the official filing date of the completed application, unless an objection is filed pursuant to s. 120.57, or the application will be deemed granted.

*History.—*s. 1, ch. 71-278, s. 3, ch. 76-168, s. 1, ch. 77-457, ss. 5, 25, 26, ch. 80-22, ss. 2, 3, ch. 81-318, s. 1, ch. 85-85, ss. 4, 26, 27, ch. 89-353, s. 4, ch. 91-429, s. 4, ch. 93-25

*Revis.—*Section 3, ch. 93-213, transferred all existing legal authorities and actions of the Department of Environmental Regulation and the Department of Natural Resources to the Department of Environmental Protection.

367.045 Certificate of authorization; application and amendment procedures.—

- (1) When a utility applies for an initial certificate of authorization from the commission, it shall:
 - (a) Provide notice of the actual application filed by mail or personal delivery to the governing body of the county or city affected, to the Public Counsel, to the commission, and to such other persons and in such other manner as may be prescribed by commission rule;
 - (b) Provide all information required by rule or order of the commission, which information may include a

detailed inquiry into the ability of the applicant to provide service, the area and facilities involved, the need for service in the area involved, and the existence or nonexistence of service from other sources within geographical proximity to the area in which the applicant seeks to provide service;

(c) File with the commission schedules showing all rates, classifications, and charges for service of every kind proposed by it and all rules, regulations, and contracts relating thereto;

(d) File the application fee required by s. 367.145; and

(e) Submit an affidavit that the applicant has provided notice of its actual application pursuant to this section.

(2) A utility may not delete or extend its service outside the area described in its certificate of authorization until it has obtained an amended certificate of authorization from the commission. When a utility applies for an amended certificate of authorization from the commission, it shall:

(a) Provide notice of the actual application filed by mail or personal delivery to the governing body of the county or municipality affected, to the Public Counsel, to the commission, and to such other persons and in such other manner as may be prescribed by commission rule;

(b) Provide all information required by rule or order of the commission, which information may include a detailed inquiry into the ability or inability of the applicant to provide service, the need or lack of need for service in the area that the applicant seeks to delete or add; the existence or nonexistence of service from other sources within geographical proximity to the area that the applicant seeks to delete or add, and a description of the area sought to be deleted or added to the area described in the applicant's current certificate of authorization;

(c) Provide a reference to the number of the most recent order of the commission establishing or amending the applicant's rates and charges;

(d) Submit an affidavit that the utility has tariffs and annual reports on file with the commission;

(e) File the application fee required by s. 367.145; and

(f) Submit an affidavit that the applicant has provided notice of its actual application pursuant to this section.

(3) If, within 30 days after the last day that notice was mailed or published by the applicant, whichever is later, the commission does not receive written objection to the notice, the commission may dispose of the application without hearing. If the applicant is dissatisfied with the disposition, it may bring a proceeding under s. 120.57.

(4) If, within 30 days after the last day that notice was mailed or published by the applicant, whichever is later, the commission receives from the Public Counsel, a governmental authority, or a utility or consumer who would be substantially affected by the requested certification or amendment a written objection requesting a proceeding pursuant to s. 120.57, the commission shall order such proceeding conducted in or near the area for

service as is prescribed by part VI of chapter 403 and parts I and II of chapter 373, or rules adopted pursuant thereto; but such service shall not be less safe, less efficient, or less sufficient than is consistent with the approved engineering design of the system and the reasonable and proper operation of the utility in the public interest. If the commission finds that a utility has failed to provide its customers with water or wastewater service that meets the standards promulgated by the Department of Environmental Regulation or the water management districts, the commission may reduce the utility's return on equity until the standards are met.

*History.—*s. 1, ch. 71-278, s. 3, ch. 76-168, s. 1, ch. 77-457, s. 53, ch. 78-95, ss. 1, 2, ch. 79-49, ss. 14, 25, 26, ch. 80-99, ss. 2, 3, ch. 81-318, ss. 15, 26, 27, ch. 82-252, s. 4, ch. 91-429, s. 10, ch. 93-35.

*Notes.—*Section 1, ch. 93-213, transferred all existing legal authorities and actions of the Department of Environmental Regulation and the Department of Natural Resources to the Department of Environmental Protection.

367.121 Powers of commission.—

(1) In the exercise of its jurisdiction, the commission shall have power:

(a) To prescribe fair and reasonable rates and charges, classifications, standards of quality and measurements, and to prescribe service rules to be observed by each utility, except to the extent such authority is expressly given to another state agency;

(b) To prescribe, by rule, a uniform system and classification of accounts for all utilities, which rules, among other things, shall establish adequate, fair, and reasonable depreciation rates and charges;

(c) To require such regular or emergency reports from a utility, including, but not limited to, financial reports, as the commission deems necessary and, if the commission finds a financial report to be incomplete, incorrect, or inconsistent with the uniform system and classification of accounts, to require a new report or a supplemental report, either of which the commission may require to be certified by an independent certified public accountant licensed under chapter 473;

(d) To require repairs, improvements, additions, and extensions to any facility, or to require the construction of a new facility, if reasonably necessary to provide adequate and proper service to any person entitled to service or if reasonably necessary to provide any prescribed quality of service, except that no utility shall be required to extend its service outside the geographic area described in its certificate of authorization, or make additions to its plant or equipment to serve outside such area, unless the commission first finds that the utility is financially able to make such additional investment without impairing its capacity to serve its existing customers;

(e) To employ and fix the compensation for such examiners and technical, legal, and clerical employees as it deems necessary to carry out the provisions of this chapter;

(f) To adopt, by affirmative vote of a majority of the commission, rules reasonably necessary and appropriate for the administration and enforcement of this chapter;

(g) To exercise all judicial powers, issue all writs, and do all things necessary or convenient to the full and complete exercise of its jurisdiction and the enforcement of its orders and requirements;

(h) To order interconnections of service or facilities between utilities, and to approve any plant capacity charges or wholesale service charges or rates related thereto, provided the commission first finds that the utility is financially able to make such additional investment as is required without impairing its capacity to serve its existing customers;

(i) To require the filing of reports and other data by a public utility or its affiliated companies, including its parent company, regarding transactions or allocations of common costs, among the utility and such affiliated companies. The commission may also require such reports or other data necessary to ensure that a utility's ratepayers do not subsidize nonutility activities;

(j) To seek relief in circuit court including temporary and permanent injunctions, restraining orders, or any other appropriate order, because the Legislature finds that violations of commission orders or rules, in connection with the impairment of a utility's operations or service, constitute irreparable harm for which there is no adequate remedy at law. Such remedies shall be in addition to and supplementary to any other remedies available for enforcement of agency action under s. 120.69 or the provisions of this chapter. The commission shall establish procedures implementing this section by rule; and

(k) To assess a utility for reasonable travel costs associated with reviewing the records of the utility and its affiliates when such records are kept out of state. The utility may bring the records back into the state for review.

(2) The commission or its duly authorized representatives may, during all reasonable hours, enter upon any premises occupied by any utility and set up and use thereon any necessary apparatus and appliance for the purpose of making investigations, inspections, examinations, and tests and exercising any power conferred by this chapter. Such utility shall have the right to be notified of and be represented at the making of such investigations, inspections, examinations, and tests.

*History.—*s. 1, ch. 71-278, s. 3, ch. 76-168, s. 1, ch. 77-457, s. 53, ch. 78-95, ss. 1, 2, 25, 26, ch. 80-99, ss. 2, 3, ch. 81-318, ss. 15, 26, 27, ch. 82-252, s. 4, ch. 91-429, s. 11, ch. 93-35.

367.122 Examination and testing of meters.—

(1) The commission may provide for the examination and testing of all meters used for measuring any product or service of a utility.

(2) Any customer or user may have any such meter tested by the utility upon payment of the fee fixed by the commission.

(3) The commission shall establish reasonable fees to be paid for testing such meters on the request of the customers. Current utility customers or users may, at their discretion, pay the fee fixed by the commission at the time of the request or have the utility include the fee with their next regularly scheduled statement. However, the fee shall be paid by the utility and repaid to the customer or user if the meter is found defective or incorrect to the disadvantage of the customer or user in excess of the degree or amount of tolerance customarily allowed for such meters, or as may be provided for in rules and regulations of the commission. No fee may be charged for any such testing done by the commission or its representatives.

(4) The commission may purchase materials, apparatus, and standard measuring instruments for such examinations and tests.

History.—s. 1, ch. 71-278, s. 100, ch. 73-333, s. 3, ch. 76-168, s. 1, ch. 77-457, ss. 16, 25, 26, ch. 80-99, ss. 2, 3, ch. 81-318, ss. 17, 26, 27, ch. 89-353, s. 4, ch. 91-429.

367.123 Service for resale.—The commission may require a utility to provide service for resale. However, before requiring the provision of service, the commission shall first find that the utility is financially able to make such additional investment as is required without impairing its capacity to serve its existing customers. Any utility which provides service for resale shall provide such service upon terms and conditions established by the commission, and no utility shall discontinue such service without the approval of the commission. In the event a governmental authority voluntarily enters into an agreement for resale, such agreement shall provide that the service will not be discontinued without 90 days' notice being given to the purchaser prior to discontinuing such service. Nothing contained herein shall be construed to prohibit the governmental authority from requiring adequate security being given to such authority to ensure payments required in the agreement.

History.—s. 1, ch. 71-278, s. 3, ch. 76-168, s. 1, ch. 77-457, ss. 17, 25, 26, ch. 80-99, s. 218, ch. 81-259, ss. 2, 3, ch. 81-318, ss. 18, 26, 27, ch. 89-353, s. 4, ch. 91-429.

367.145 Regulatory assessment and application fees.—

(1) The commission shall set by rule a regulatory assessment fee that each utility must pay once a year in conjunction with filing its annual financial report required by commission rule. Notwithstanding any provision of law to the contrary, the amount of the regulatory assessment fee shall not exceed 4.5 percent of the gross revenues of the utility derived from intrastate business, excluding sales for resale made to a regulated company.

(a) A governmental authority to which ownership or control of a utility is transferred is not liable for any fees owed the commission by the utility as of the date of transfer. However, whenever a purchase at wholesale is made of any water or wastewater service and a fee is paid or payable thereon by the selling utility and the utility purchasing such water or wastewater service resells the same directly to customers, the purchasing utility is entitled to, and must receive, credit on such fees as may be due by it under this section to the extent of the fee paid or payable upon such water or wastewater service by the utility from which such purchase was made. All such fee payments and penalties must be deposited in accordance with s. 350.113.

(b) In addition to the penalties and interest otherwise provided, the commission may impose a penalty upon a utility for failure to pay regulatory assessment fees in a timely manner in accordance with s. 367.161.

(2) Each utility shall pay an application fee, established by the commission, for an original certificate of authorization; an amendment to an existing certificate of authorization; a request for rate relief in accordance with s. 367.081 or s. 367.0814; a proceeding pursuant to s. 367.0822; service availability charges filed in accordance with s. 367.101; and when this chapter becomes

applicable to a county in accordance with s. 367.171. The amount of the application fee determined by the commission may not exceed \$4,500 and must be based upon the existing or proposed capacity of the system, extension, or deletion. All such fee payments must be deposited in accordance with s. 350.113.

(3) Fees collected by the commission pursuant to this section may only be used to cover the cost of regulating water and wastewater systems. Fees collected by the commission pursuant to chapters 364 and 365 may not be used to pay the cost of regulating water and wastewater systems.

History.—ss. 19, 27, ch. 89-353, s. 5, ch. 90-166, s. 4, ch. 91-429.

367.156 Public utility records; confidentiality.—

(1) The commission shall continue to have reasonable access to all utility records and records of affiliated companies, including its parent company, regarding transactions or cost allocations among the utility and such affiliated companies, and such records necessary to ensure that a utility's ratepayers do not subsidize non-utility activities. Upon request of the utility or any other person, any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from s. 119.07(1).

(2) Discovery in any docket or proceeding before the commission shall be in the manner provided for in Rule 1.280 of the Florida Rules of Civil Procedure. Information which affects a utility's rates or cost of service shall be considered relevant for purposes of discovery in any docket or proceeding where the utility's rates or cost of service are at issue. The commission shall determine whether information requested in discovery affects a utility's rates or cost of service. Upon showing by a utility or other person and a finding by the commission that discovery will require the disclosure of proprietary confidential business information, the commission shall issue appropriate protective orders designating the manner for handling such information during the course of the proceeding and for protecting such information from disclosure outside the proceeding. Such proprietary confidential business information shall be exempt from s. 119.07(1). Any records provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the commission and the office of the Public Counsel and any other party subject to the public records act as confidential and shall be exempt from s. 119.07(1), pending a formal ruling on such request by the commission or the return of the records to the person providing the records. Any record which has been determined to be proprietary confidential business information and is not entered into the official record of the proceeding must be returned to the person providing the record within 60 days after the final order, unless the final order is appealed. If the final order is appealed, any such record must be returned within 30 days after the decision on appeal. The commission shall adopt the necessary rules to implement this provision.

(3) Proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company

misdeemeanor is of the particular degree designated by statute. Any crime declared by statute to be a misdemeanor without specification of degree is of the second degree.

(3) This section is supplemental to, and is not to be construed to alter, the law of this state establishing and governing criminal offenses that are divided into degrees by virtue of distinctive elements comprising such offenses, regardless of whether such law is established by constitutional provision, statute, court rule, or court decision.

History.—s. 2, ch. 71-136, s. 1, ch. 72-724

775.082 Penalties.—

(1) A person who has been convicted of a capital felony shall be punished by life imprisonment and shall be required to serve no less than 25 years before becoming eligible for parole unless the proceeding held to determine sentence according to the procedure set forth in s. 921.141 results in findings by the court that such person shall be punished by death, and in the latter event such person shall be punished by death.

(2) In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment as provided in subsection (1).

(3) A person who has been convicted of any other designated felony may be punished as follows:

(a) For a life felony committed prior to October 1, 1983, by a term of imprisonment for life or for a term of years not less than 30 and, for a life felony committed on or after October 1, 1983, by a term of imprisonment for life or by a term of imprisonment not exceeding 40 years;

(b) For a felony of the first degree, by a term of imprisonment not exceeding 30 years or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment;

(c) For a felony of the second degree, by a term of imprisonment not exceeding 15 years;

(d) For a felony of the third degree, by a term of imprisonment not exceeding 5 years.

(4) A person who has been convicted of a designated misdemeanor may be sentenced as follows:

(a) For a misdemeanor of the first degree, by a definite term of imprisonment not exceeding 1 year;

(b) For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days.

(5) Any person who has been convicted of a non-criminal violation may not be sentenced to a term of imprisonment nor to any other punishment more severe than a fine, forfeiture, or other civil penalty, except as provided in chapter 316 or by ordinance of any city or county.

(6) Nothing in this section shall be construed to alter the operation of any statute of this state authorizing a trial court, in its discretion, to impose a sentence of imprisonment for an indeterminate period within minimum and maximum limits as provided by law, except as provided in subsection (1).

(7) This section does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. Such a judgment or order may be included in the sentence.

History.—s. 3, ch. 71-136, ss. 1, 2, ch. 72-118, s. 2, ch. 72-724, s. 5, ch. 74-363, s. 1, ch. 77-174, s. 1, ch. 83-87

775.0823 Violent offenses committed against law enforcement officers, correctional officers, state attorneys, assistant state attorneys, justices, or judges.—

Any provision of law to the contrary notwithstanding, the Legislature does hereby provide for an increase and certainty of penalty for any person convicted of a violent offense against any law enforcement or correctional officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against any state attorney elected pursuant to s. 27.01 or assistant state attorney appointed under s. 27.181; or against any justice or judge of a court described in Article V of the State Constitution, which offense arises out of or in the scope of the officer's duty as a law enforcement or correctional officer, the state attorney's or assistant state attorney's duty as a prosecutor or investigator, or the justice's or judge's duty as a judicial officer, as follows:

(1) For murder in the first degree as described in s. 782.04(1), if the death sentence is not imposed, a sentence of imprisonment for life without eligibility for release.

(2) For murder in the second degree as described in s. 782.04(2) and (3), a sentence pursuant to the sentencing guidelines.

(3) For murder in the third degree as described in s. 782.04(4), a sentence pursuant to the sentencing guidelines.

(4) For manslaughter as described in s. 782.07 during the commission of a crime, a sentence pursuant to the sentencing guidelines.

(5) For kidnapping as described in s. 787.01, a sentence pursuant to the sentencing guidelines.

(6) For aggravated battery as described in s. 784.045, a sentence pursuant to the sentencing guidelines.

(7) For aggravated assault as described in s. 784.021, a sentence pursuant to the sentencing guidelines.

Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld.

History.—s. 3, ch. 89-100, s. 1, ch. 90-77, s. 16, ch. 93-406
Note.—Section 16, ch. 93-406, provides for applicability to sentencing for offenses committed on or after January 1, 1994

775.0825 Attempted murder of law enforcement officer; penalty.—Any person convicted of attempted murder of a law enforcement officer as provided in s. 784.07(3) shall be required to serve no less than 25 years before becoming eligible for parole. Such sentence shall not be subject to the provisions of s. 921.001.

History.—s. 56, ch. 88-261

775.083 Fines.—

(1) A person who has been convicted of an offense

other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. 775.082; when specifically authorized by statute, he may be sentenced to pay a fine in lieu of any punishment described in s. 775.082. A person who has been convicted of a noncriminal violation may be sentenced to pay a fine. Fines for designated crimes and for noncriminal violations shall not exceed:

- (a) \$15,000, when the conviction is of a life felony.
- (b) \$10,000, when the conviction is of a felony of the first or second degree.
- (c) \$5,000, when the conviction is of a felony of the third degree.
- (d) \$1,000, when the conviction is of a misdemeanor of the first degree.
- (e) \$500, when the conviction is of a misdemeanor of the second degree or a noncriminal violation.
- (f) Any higher amount equal to double the pecuniary gain derived from the offense by the offender or double the pecuniary loss suffered by the victim.
- (g) Any higher amount specifically authorized by statute.

(2) If a defendant is unable to pay a fine, the court may defer payment of the fine to a date certain.

History.—s. 4, ch. 71-136; s. 6, ch. 74-383; s. 1, ch. 77-97; s. 1, ch. 77-174.

775.0835 Fines; surcharges; Crimes Compensation Trust Fund.—

(1) When any person pleads guilty or nolo contendere to, or is convicted of, any felony or misdemeanor under the laws of this state which resulted in the injury or death of another person, the court may, if it finds that the defendant has the present ability to pay the fine and finds that the impact of the fine upon the defendant's dependents will not cause such dependents to be dependent on public welfare, in addition to any other penalty, order the defendant to pay a fine, commensurate with the offense committed and with the probable impact upon the victim, but not to exceed \$10,000. The fine shall be deposited in the Crimes Compensation Trust Fund.

(2) In addition to any fine, civil penalty, or other penalty provided by statute, ordinance, or other law, there shall be imposed, levied, and collected by the courts of this state the 5-percent surcharge on all fines, civil penalties, and forfeitures, as established and created in s. 960.25, which surcharge shall be deposited in the Crimes Compensation Trust Fund created by s. 960.21.

(3) The additional \$50 obligation created by s. 960.20 shall be collected, and \$49 of each \$50 collected shall be credited to the Crimes Compensation Trust Fund, prior to any fine or surcharge authorized by this chapter.

History.—ss. 2, 3, ch. 77-452; s. 20, ch. 80-146; s. 2, ch. 83-319; s. 8, ch. 85-326; s. 12, ch. 91-23; s. 2, ch. 93-9.

Note.—Section 3, ch. 93-9, provides for applicability to claims for compensation for crimes committed on or after October 1, 1993.

775.0836 Fines; surcharges in cases in which victim is handicapped or elderly.—

(1) In addition to any fine prescribed by law for any criminal offense or any county or municipal ordinance, when any victim of such criminal offense or any county or municipal ordinance violation is handicapped or

elderly, as defined in s. 426.002, there is hereby assessed an additional 10-percent surcharge on such fine, which surcharge shall be imposed by all county or circuit courts, and collected by the clerk of the court together with such fine. The surcharge shall be deposited in the Handicapped and Elderly Security Assistance Trust Fund established by s. 426.009.

(2) The surcharges imposed by this section apply only in counties containing housing projects as defined in this chapter.

History.—s. 5, ch. 84-250; s. 9, ch. 87-155; s. 49, ch. 93-120.

Note.—Section 49, ch. 93-120, amended subsection (1), effective July 1, 1994, to read:

(1) In addition to any fine prescribed by law for any criminal offense or any county or municipal ordinance, when any victim of such criminal offense or any county or municipal ordinance violation is handicapped or elderly, as defined in s. 426.002, there is hereby assessed an additional 10-percent surcharge on such fine, which surcharge shall be imposed by all county and circuit courts, and collected by the clerk of the court together with such fine. The surcharge shall be deposited in the General Revenue Fund.

Note.—The words "this chapter" refer to ch. 87-155.

775.084 Habitual felony offenders and habitual violent felony offenders; extended terms; definitions; procedure; penalties.—

(1) As used in this act:

(a) "Habitual felony offender" means a defendant to whom the court may impose an extended term of imprisonment, as provided in this section, if it finds that:

1. The defendant has previously been convicted of any combination of two or more felonies in this state or other qualified offenses;

2. The felony for which the defendant is to be sentenced was committed within 5 years of the date of the conviction of the last prior felony or other qualified offense of which he was convicted, or within 5 years of the defendant's release, on parole or otherwise, from a prison sentence or other commitment imposed as a result of a prior conviction for a felony or other qualified offense, whichever is later;

3. The felony for which the defendant is to be sentenced, and one of the two prior felony convictions, is not a violation of s. 893.13 relating to the purchase or the possession of a controlled substance;

4. The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this section; and

5. A conviction of a felony or other qualified offense necessary to the operation of this section has not been set aside in any postconviction proceeding.

(b) "Habitual violent felony offender" means a defendant for whom the court may impose an extended term of imprisonment, as provided in this section, if it finds that:

1. The defendant has previously been convicted of a felony or an attempt or conspiracy to commit a felony and one or more of such convictions was for:

- a. Arson,
- b. Sexual battery,
- c. Robbery,
- d. Kidnapping,
- e. Aggravated child abuse,
- f. Aggravated assault,
- g. Murder,
- h. Manslaughter,
- i. Unlawful throwing, placing, or discharging of a destructive device or bomb,

1. Armed burglary, or
- k. Aggravated battery;
2. The felony for which the defendant is to be sentenced was committed within 5 years of the date of the conviction of the last prior enumerated felony or within 5 years of the defendant's release, on parole or otherwise, from a prison sentence or other commitment imposed as a result of a prior conviction for an enumerated felony, whichever is later;
3. The defendant has not received a pardon on the ground of innocence for any crime that is necessary for the operation of this section; and
4. A conviction of a crime necessary to the operation of this section has not been set aside in any post-conviction proceeding.

(c) "Qualified offense" means any offense, substantially similar in elements and penalties to an offense in this state, which is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction, that was punishable under the law of such jurisdiction at the time of its commission by the defendant by death or imprisonment exceeding 1 year.

(2) For the purposes of this section, the placing of a person on probation without an adjudication of guilt shall be treated as a prior conviction if the subsequent offense for which he is to be sentenced was committed during such probationary period.

(3) In a separate proceeding, the court shall determine if the defendant is a habitual felony offender or a habitual violent felony offender. The procedure shall be as follows:

(a) The court shall obtain and consider a presentence investigation prior to the imposition of a sentence as a habitual felony offender or a habitual violent felony offender.

(b) Written notice shall be served on the defendant and his attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence so as to allow the preparation of a submission on behalf of the defendant.

(c) Except as provided in paragraph (a), all evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

(d) Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable to the extent normally applicable to similar findings.

(e) For the purpose of identification of a habitual felony offender or a habitual violent felony offender, the court shall fingerprint the defendant pursuant to s. 921.241.

(4)(a) The court, in conformity with the procedure established in subsection (3), shall sentence the habitual felony offender as follows:

1. In the case of a felony of the first degree, for life.
2. In the case of a felony of the second degree, for a term of years not exceeding 30.
3. In the case of a felony of the third degree, for a term of years not exceeding 10.

(b) The court, in conformity with the procedure established in subsection (3), may sentence the habitual violent felony offender as follows:

1. In the case of a felony of the first degree, for life, and such offender shall not be eligible for release for 15 years.

2. In the case of a felony of the second degree, for a term of years not exceeding 30, and such offender shall not be eligible for release for 10 years.

3. In the case of a felony of the third degree, for a term of years not exceeding 10, and such offender shall not be eligible for release for 5 years.

(c) If the court decides that imposition of sentence under this section is not necessary for the protection of the public, sentence shall be imposed without regard to this section. At any time when it appears to the court that the defendant is a habitual felony offender or a habitual violent felony offender, the court shall make that determination as provided in subsection (3).

(d) A sentence imposed under this section shall not be increased after such imposition.

(e) A sentence imposed under this section is not subject to s. 921.001. The provisions of s. 947.146 shall be applied to persons sentenced as habitual offenders under paragraph (1)(a), but shall not be applied to persons sentenced as habitual violent felony offenders under paragraph (1)(b). The provisions of s. 947.1405 shall apply to persons sentenced as habitual felony offenders and persons sentenced as habitual violent felony offenders. A defendant sentenced under this section is not eligible for gain-time granted by the Department of Corrections, except that the department may grant up to 25 days of incentive gain-time each month as provided in s. 944.275(4).

(5) In order to be counted as a prior felony for purposes of sentencing under this section, the felony must have resulted in a conviction sentenced separately prior to the current offense and sentenced separately from any other felony conviction that is to be counted as a prior felony.

(6) The purpose of this section is to provide uniform punishment for those crimes made punishable under this section, and to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

History.—s. 5, ch. 71-136; s. 7, ch. 74-363; s. 1, ch. 75-116; s. 2, ch. 75-298; s. 1, ch. 77-174; s. 6, ch. 86-131; s. 1, ch. 89-290; s. 2, ch. 93-106.

Note.—

A. Section 28, ch. 93-406, provides that:
(1) An offender designated for early release by the Control Release Authority who is serving:

(a) A sentence for a controlled substance offense under s. 893.13(1)(e) or (1)(f), Florida Statutes (1991), for purchase or possession with intent to sell, manufacture, or deliver; or

(b) A sentence, or has previously served a sentence, as a habitual offender under s. 775.084(1)(a), Florida Statutes, for a primary offense involving drug possession or purchase,

may be released into supervision under s. 948.001(3), Florida Statutes. Supervision may include a requirement that a substance abuse assessment be conducted and, when warranted, appropriate substance abuse treatment services shall be provided.

(2) An offender designated for early release by the Control Release Authority who is serving:

(a) A sentence for a controlled substance offense under s. 893.13(1)(e) or (1)(f), Florida Statutes (1991), for sale, manufacture, or delivery; or

(b) A sentence, or has previously served a sentence, as a habitual offender under s. 775.084(1)(a), Florida Statutes, for a primary offense involving drug sale, manufacture, delivery, or trafficking.

shall be released into supervision under s. 948.001(3), Florida Statutes. Supervision may include a requirement that a substance abuse assessment be conducted and,

when warranted, appropriate substance abuse treatment services shall be provided.

Section 30, ch. 93-406, provides for the repeal of s. 28, ch. 93-406, effective June 1, 1995.

B. Section 29, ch. 93-406, provides that:

(1) Any inmate who is sentenced under s. 893.13(1)(e)1 or (1)(g)1, Florida Statutes, who has not served such mandatory minimum term, or who is sentenced under s. 775.084(1)(a), Florida Statutes, shall only be placed in an advanceable category as the result of a critical depletion transfer in the following order of priority:

(a) Inmates sentenced under s. 893.13(1)(e)1 or (1)(g)1, Florida Statutes;
 (b) Inmates sentenced under s. 775.084(1)(a), Florida Statutes, except those whose primary offense at conviction is for burglary as provided in s. 810.02, Florida Statutes;

(c) Inmates sentenced under s. 775.084(1)(a), Florida Statutes, whose primary offense at conviction is for burglary as provided in s. 810.02, Florida Statutes.

(2) A critical depletion transfer occurs whenever the release of eligible inmates under control release depletes the total number of eligible inmates with advanceable control release dates to less than 4,000 and inmates in the nonadvanceable subdivision Maximum A category are transferred to the advanceable category with the control release date established at the tentative release date in compliance with the following specifications and criteria:

(a) The number transferred shall be equal to the minimum number needed to return the pool of inmates with control release dates established at tentative release dates to 4,000.

(b) Those inmates who are closest to their tentative release dates or presumptive release dates shall be eligible for transfer.

(c) Inmates shall be eligible for transfer if subject to disciplinary proceedings during the 60 days prior to the transfer action.

(d) Inmates selected for transfer shall have their control release dates reestablished at their current tentative release date or presumptive release date, whichever is earlier.

Section 30, ch. 93-406, provides for the repeal of s. 29, ch. 93-406, effective June 1, 1995.

775.08401 Habitual offenders and habitual violent felony offenders; eligibility criteria.—The state attorney in each judicial circuit shall adopt uniform criteria to be used in determining if an offender is eligible to be sentenced as a habitual offender or a habitual violent felony offender. The criteria shall be designed to ensure fair and impartial application of the habitual offender statute. A deviation from this criteria must be explained in writing, signed by the state attorney, and placed in the case file maintained by the state attorney. A deviation from the adopted criteria is not subject to appellate review.

History.—s. 3 of 93-406.

775.0841 Legislative findings and intent.—The Legislature hereby finds that a substantial and disproportionate number of serious crimes is committed in Florida by a relatively small number of multiple and repeat felony offenders, commonly known as career criminals. The Legislature further finds that priority should be given to the investigation, apprehension, and prosecution of career criminals in the use of law enforcement resources and to the incarceration of career criminals in the use of available prison space. The Legislature intends to initiate and support increased efforts by state and local law enforcement agencies and state attorneys' offices to investigate, apprehend, and prosecute career criminals and to incarcerate them for extended terms.

History.—s. 3 of 88-131.

775.0842 Persons subject to career criminal prosecution efforts.—A person who is under arrest for the commission, attempted commission, or conspiracy to commit any felony in this state shall be the subject of career criminal prosecution efforts provided that such person qualifies as a habitual felony offender or a habitual violent felony offender under s. 775.084.

History.—s. 4 of 88-131, s. 2 of 89-280.

775.0843 Policies to be adopted for career criminal cases.—

(1) Criminal justice agencies within this state shall employ enhanced law enforcement management efforts and resources for the investigation, apprehension, and prosecution of career criminals. Each state attorney, sheriff, and the police chief of each municipality with a population in excess of 50,000 shall designate a career criminal program coordinator with primary responsibility for coordinating the efforts contemplated by this section and ss. 775.0841 and 775.0842. Enhanced law enforcement efforts and resources shall include, but not be limited to:

(a) Assignment of highly qualified investigators and prosecutors to career criminal cases.

(b) Significant reduction of caseloads for investigators and prosecutors assigned to career criminal cases.

(c) Coordination with federal, state, and local criminal justice agencies to facilitate the collection and dissemination of criminal investigative and intelligence information relating to those persons meeting the criteria of a career criminal.

(2) Each state attorney's office shall establish a career criminal prosecution unit and may adopt and implement policies based on the following guidelines:

(a) All reasonable prosecutorial efforts shall be made to resist the pretrial release of a charged defendant meeting career criminal selection criteria.

(b) A plea of guilty or a trial conviction shall be sought on each offense charged in the accusatory pleadings against an individual meeting career criminal selection criteria.

(c) All reasonable prosecutorial efforts shall be made to reduce the time between arrest and disposition of charges against an individual meeting career criminal selection criteria.

(d) All reasonable prosecutorial efforts shall be made to persuade the court to impose the most severe sanction authorized upon a person convicted after prosecution as a career criminal.

(3) This section does not prohibit a plea agreement in the interest of justice when there are codefendants and the prosecuting attorney determines that the information or testimony of the defendant making the agreement is necessary for the conviction of one or more of the other codefendants. The court may condition its acceptance of such plea agreement on the provision of such information or testimony by such defendant.

(4) Law enforcement agencies within this state shall employ enhanced law enforcement management efforts and resources in the investigation, apprehension, and prosecution of career criminals. Enhanced law enforcement efforts and resources shall include, but not be limited to:

(a) Crime analysis, consisting of the timely collection and study of local crime data to accomplish the following:

1. Identify evolving or existing crime patterns involving career criminals.
2. Provide investigative leads.
3. Isolate and identify geographical areas or population groups experiencing severe crime problems in order to improve crime prevention efforts.
4. Provide supporting data for improved allocation of overall law enforcement agency resources.

CHAPTER 837

PERJURY

- 837.011 Definitions.
 837.012 Perjury when not in an official proceeding.
 837.02 Perjury in official proceedings.
 837.021 Perjury by contradictory statements.
 837.05 False reports to law enforcement authorities.
 837.06 False official statements.
 837.07 Recantation as a defense.

837.011 Definitions.—In this chapter, unless a different meaning plainly is required:

(1) "Official proceeding" means a proceeding heard, or which may be or is required to be heard, before any legislative, judicial, administrative, or other governmental agency or official authorized to take evidence under oath, including any referee, master in chancery, hearing examiner, commissioner, notary, or other person taking testimony or a deposition in connection with any such proceeding.

(2) "Oath" includes affirmation or any other form of attestation required or authorized by law by which a person acknowledges that he is bound in conscience or law to testify truthfully in an official proceeding or other official matter.

(3) "Material matter" means any subject, regardless of its admissibility under the rules of evidence, which could affect the course or outcome of the proceeding. Whether a matter is material in a given factual situation is a question of law.

History.—s. 53, ch. 74-383

837.012 Perjury when not in an official proceeding.

(1) Whoever makes a false statement, which he does not believe to be true, under oath, not in an official proceeding, in regard to any material matter shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Knowledge of the materiality of the statement is not an element of this crime, and the defendant's mistaken belief that his statement was not material is not a defense.

History.—s. 2, ch. 1637, 1866; RS 2560 GS 3472, RGS 5341, CGL 7474 s. 997, ch. 71-136 s. 54 ch. 74-383 s. 32, ch. 75-298 s. 205, ch. 91-224

Note.—Former s. 837.01

837.02 Perjury in official proceedings.—

(1) Whoever makes a false statement, which he does not believe to be true, under oath in an official proceeding in regard to any material matter shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Knowledge of the materiality of the statement is not an element of this crime, and the defendant's mistaken belief that his statement was not material is not a defense.

History.—s. 1, sub-ch. 6, ch. 1637, 1866; RS 2561, GS 3473, RGS 5343, CGL 7477, s. 998, ch. 71-136 s. 55, ch. 74-383 s. 33, ch. 75-298

837.021 Perjury by contradictory statements.—

(1) Whoever, in one or more official proceedings,

willfully makes two or more material statements under oath when in fact two or more of the statements contradict each other is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The prosecution may proceed in a single count by setting forth the willful making of contradictory statements under oath and alleging in the alternative that one or more of them are false.

(2) The question of whether a statement was material is a question of law to be determined by the court.

(3) In any prosecution for perjury by contradictory statements under this section, it is not necessary to prove which, if any, of the statements is not true.

(4) In any prosecution under this section for perjury by contradictory statements, it shall be a defense that the accused believed each statement to be true at the time he made it.

(5) A person may not be prosecuted under this section for making contradictory statements in separate proceedings if the contradictory statement made in the most recent proceeding was made under a grant of immunity under s. 914.04; but such person may be prosecuted under s. 837.02 for any false statement made in that most recent proceeding, and the contradictory statements may be received against him upon any criminal investigation or proceeding for such perjury.

History.—s. 1, ch. 72-314 s. 56, ch. 74-383 s. 34, ch. 75-298 s. 2, ch. 85-41

837.05 False reports to law enforcement authorities.—Whoever knowingly gives false information to any law enforcement officer concerning the alleged commission of any crime is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 57, ch. 74-383 s. 34, ch. 75-298 s. 206, ch. 91-224

837.06 False official statements.—Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 58, ch. 74-383 s. 34, ch. 75-298 s. 207, ch. 91-224

837.07 Recantation as a defense.—Recantation shall be a defense to any prosecution for perjury or false statement only if the person making the false statement admits such statement to be false in the same continuous proceeding or matter, and:

(1) The false statement has not substantially affected the proceeding; or

(2) Such admission is made before it has become manifest that such false statement has been or will be exposed.

History.—s. 1, ch. 90-126

E.C.B.S.
ENVIRO-CHECK, INC.
7121 GRAND NATIONAL DRIVE
SUITE 101
ORLANDO, FL 32819
(800) 845-5036
FAX(407) 352-4007

METER READING AGREEMENT

Customer Name:

To Be Read ____ Day of Each Month:

of Units:

Type of System:

Manual _____
AMR _____

Cost Per Month: \$ 1.95

Total Monthly Expense: \$

Date:

Meter Reading Agreement made this ____ day of _____, 19____, between customer, whose name appears above (hereafter Customer) and E.C.B.S., a division of Enviro-Check, Inc., (hereafter E.C.B.S.).

E.C.B.S. will collect, monthly, the payment of water bills from the resident and deposit the checks into a limited access account. On the first day of each month E.C.B.S.'s monthly fee, plus any additional charges, will be wired into E.C.B.S.'s account and the balance of the funds will be transferred to the Customer's account. Under no circumstances will any funds be withdrawn by either party during the course of the month.

SCOPE OF WORK BY E.C.B.S.

1. E.C.B.S. will read meters monthly.
2. E.C.B.S. will mail calculated bills directly to resident.
3. E.C.B.S. will provide Customer with a summary of monthly billing.
4. E.C.B.S. will attempt to collect on past due accounts. Upon E.C.B.S.'s determination of uncollectability, E.C.B.S. will turn account over to Customer.
5. E.C.B.S. will assist Customer in the preparation and filing of appropriate state and local utility authority reporting requirements.

SCOPE OF WORK BY CUSTOMER

1. Customer will provide E.C.B.S. with water bills within ten (10) days of receipt.
2. Customer will provide E.C.B.S. with ten (10) day advance notice of scheduled resident move-outs. Notification must be by fax or mail.
3. Customer will provide E.C.B.S. resident move-in dates prior to the next meter reading. Notification must be by fax or mail. Unscheduled move-outs will be handled via fax only on an as needed basis.
4. Customer will provide E.C.B.S. with monthly Rent Roll with resident addresses and telephone numbers.
5. Customer will provide and maintain data only telephone lines to each MIU at Customer's expense to allow for uninterrupted meter reading for AMR systems.

TERMS & CONDITIONS

1. The monthly billing charge per unit will begin to be charged in the following manner.

Existing Property: As new residents move in and upon notification by Customer to resident that they are liable for the water/sewer expense.

New Construction: As units are occupied until the property is 90% occupied, or six months after the first move-in, whichever occurs first.

2. Initial Activation: E.C.B.S. will assess a one-time initial activation charge of \$10.00 per unit to cover the administrative expense and account set-up. This is a non-recurring cost.

Example: 350 units x \$10.00 = \$3,500.00. This is the total that will ever be paid! If there is a move-in two (2) years from now, there will not be another charge.

The total due E.C.B.S. will be # units _____ x \$10.00 = \$ _____. This sum will be billed to the property when the first resident bills are mailed by E.C.B.S. This sum is due Net 30.

3. Termination: The length of this Agreement is twelve (12) months from the date of the signing of the Agreement. The Agreement will continue on a quarterly basis until such time that either party provides the other with 30-day written notice of termination.

4. Meter Reading Transfer: Should Customer elect to purchase AMR and billing software from E.C.B.S. in order to perform their own billings, E.C.B.S. will install, or will instruct the appropriate software company to install, the Customer's AMR Software and the billing software and provide two (2) hours of training. Each additional hour of computer specialized training will be billed at \$50.00/hour. Customer agrees to pay all reasonable expenses, including travel, lodging, meals, telephones for E.C.B.S.'s installer and trainer. Should Customer elect to purchase and use the AMR and/or billing software, the Customer becomes a direct licensee of the software company and there is no further obligation of E.C.B.S. Furthermore, Customer and their respective heirs, executors, administrators, assigns, purchasers and successors agrees to hold E.C.B.S. harmless and release E.C.B.S. from any liabilities whatsoever upon the Customer purchasing and operating the AMR and/or billing software.

5. E.C.B.S. will maintain \$1,000,000 worth of general Liability Insurance and Product Liability Insurance.

6. Force Majeure: Neither party hereto shall have any liability including consequential damages for the failure to perform or a delay in performing any of its obligations hereunder if such failure or delay is the result of a legal restriction, labor dispute, strike, boycott, flood, fire, public emergency, revolution, resurrection, riot, lightning, war, unavoidable mechanical failure or any other cause beyond the control of such party.

7. All notices by Customer or E-C to the other must be in writing. Notices to Customer will be considered given if delivered personally to one of the Customer's officers or mailed by registered or certified mail, postage prepaid, addressed to the Customer listed on the Meter Reading Agreement. Notices to E-C will be considered given if mailed by registered or certified mail, postage prepaid, to E-C at E-C address above, or such other address as E-C shall designate to Customer in writing. Notices to Customer to be sent to:

Customer:

E.C.B.S./Enviro-Check, Inc.
7121 Grand National Drive, Suite 101
Orlando, FL 32819
Tel: (800) 845-5036

8. Governing Law, Venue, Severability: This agreement shall be governed by the laws of the State of Florida. Venue shall be proper only in Orange County, Florida. If any one or more of the provisions of this agreement, shall be held invalid or unenforceable, the validity and enforceability of all other provisions of this agreement shall not be affected thereby. The parties hereby expressly waive trial by jury in any actions. No waiver of any default by Customer shall be implied from any failure by E.C.B.S. to take action with respect to such default. Customer and/or E.C.B.S. has fifteen (15) days to cure default.

9. In the event of any legal action or proceeding by Customer or E.C.B.S. against the other under this Meter Reading Agreement, the prevailing party shall be entitled to recover all expenses and costs, including attorney's fees and costs of appeal, if any, in such amount as is reasonable.

10 All rights and obligations of this Meter Reading Agreement shall bind and inure to the benefit of the parties and their respective heirs, executors, administrators, purchasers, assigns, and successors. This Meter Reading Agreement may not be assigned by the Customer. E.C.B.S. reserves the right to assign, transfer, or otherwise exchange its rights, duties, and obligations under this agreement with notice to Customer.

11. This Meter Reading Agreement supersedes any prior agreement and embodies the entire agreement between Customer and E.C.B.S. relative to its subject matter, and may not be modified, changed or altered in any way except in writing. Meter Reading Agreement shall be interpreted and enforced in accordance with the laws of the State of Florida.

12. Headings. Headings in this agreement are for convenience only and shall not be used to interpret or construe its provisions.

13. Hold Harmless and Indemnification: Customer shall hold harmless and indemnify, except for acts of negligence and willful misconduct, E.C.B.S., it's officers, owners, agents, subcontractors, etc., for any and all acts, fines, expenses, and all liability associated with claims or actions of any nature against E.C.B.S., et. al., by local and/or state authorities.

THE CUSTOMER ACKNOWLEDGES THAT HE HAS READ THIS AGREEMENT, UNDERSTANDS THE AGREEMENT IS BINDING AND AGREES TO ABIDE BY THE TERMS AND CONDITIONS OF THIS AGREEMENT.

CUSTOMER ACKNOWLEDGES RECEIPT OF THIS AGREEMENT.

CUSTOMER:

E.C.B.S./ENVIRO-CHECK, INC.:

Agent For:

Agent for E.C.B.S.