

Consolidated Apartment Ventures, L.P.
520 Broad Street
Newark, New Jersey 07102

Mark Mahony
Sr. Vice President

May 21, 1996

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

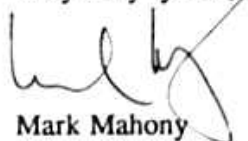
Re: **Application of Consolidated Apartment Ventures, L.P.,
D/B/A Banyan Bay Apartments, Coconut Creek, FL for
Exemption from Public Service Commission Regulation**

Dear Sir or Madam:

By way of this letter, and in my capacity as Senior Vice President of Consolidated Apartment Ventures, L.P. owner of the Banyan Bay apartments I am granting Fred Peirce, in his capacity as Regional Manager for ZOM Residential Services, Inc. the authority to sign the captioned application.

Please call me at (201) 481-8856 if you have any questions.

Very truly yours,



Mark Mahony

DOCUMENT NUMBER - DATE

05787 MAY 24 1996

RECD: RECORDS/REPORTING

Application for Reseller Exemption

Banyon Bay

APPLICATION FOR RESELLER EXEMPTION

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- II. Copy of 25-30 of the Florida Administrative Codes
- 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)(b), FLORIDA ADMINISTRATIVE CODE

The application must be signed by
the owner or accompanied by a Letter
of Authorization from the owner.

NAME OF SYSTEM: Banyan Bay Apartment Homes

PHYSICAL ADDRESS OF SYSTEM: 4303 W. Atlantic Boulevard
Coconut Creek, Fl. 33066

COUNTY WHERE SYSTEM IS LOCATED: Broward

NUMBER OF UNITS 416 WHEN CONSTRUCTED 1989

NAME OF SYSTEM OWNER(S): MBL Life Assurance, Corporation

MAILING ADDRESS (IF DIFFERENT): SEE ATTACHED LETTER

PRIMARY CONTACT PERSON:

NAME: Fred Peirce

ADDRESS: 2255 Glades Road, Suite 324 Atrium
Poca Raton, Florida 33431

PHONE NO.: 407-989-2227

**NATURE OF OWNER'S BUSINESS ORGANIZATION (CORPORATION, PARTNERSHIP,
LIMITED PARTNERSHIP, SOLE PROPRIETOR, ASSOCIATION, ETC.).**

Corporation

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 will be provided at a rate or charge that does
not exceed the actual purchase price.

APPLICATION FOR RESELLER EXEMPTION

If the reseller proposes to contract out metering or billing services, provide the following documentation.

SERVICE COMPANY: E.C.P.S., Enviro-check Billing Services

ADDRESS: 7121 Grand National Drive, Suite 101
Orlando, Fl. 32819

PHONE NO. : 407-352-2277

- 11. Attached a copy of the service agreement.
- 12. Attached is a statement that the reseller, and not its agent, will control customer deposits, if applicable.


* * * * *

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 reseller responsibility to examine and test meters. Also attached are Rules 25-30.262 through 25-30.267, Florida Administrative Code, which expand on reseller 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.

* * * * *

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 or s. 775.083, F.S.

5/16/96
Date


Owner's Signature

Frederic H. Peirce
Owner's Name (Typed or Printed)

Regional Manager, ZOM Residential Services
Owner's Title Inc.

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

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1. Service will be provided at a rate or charge that does
not exceed the actual purchase price.

APPLICATION FOR RESELLER EXEMPTION

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 and Rules 25-30.262 through 25-30.267, Florida Administrative Code, regarding the examination and testing of meters. (Statute and Rule attached.)
4. The utility services provided are:
Water Yes Wastewater Yes
or Septic No
For service not provided, please state how handled:
N/A
5. Utility which provides bulk service to the reseller:
Name: City of Margate
Phone Number: 954-972-6454
Number of Master Meters and sizes: 23-2"
6. Attached are current rates and charges of the provider in 5 above.
7. Attached is a schedule of reseller's proposed rates and charges. The schedule must specifically whether or not the reseller proposes to charge for the following items and, if so, the proposed rate or charge:
 - a. common area water
 - b. security depositsThe Commission currently does not allow resellers to charge tenants for administrative or operating costs.
8. Attached is a comparison showing that the amount the reseller proposes to charge tenants will not exceed the cost to provide the service.
9. Attached is an explanation of the proposed method of billing customers, separately, for both water and wastewater.
10. Residents will be billed within 2 days after the meters have been read.

APPLICATION FOR RESELLER EXEMPTION

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ADDRESS: 7121 Grand National Drive, Suite 101
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5/16/96
(Date)


Owner's Signature

Frederic B. Peirce
Owner's Name (Typed or Printed)

Regional Manager, ZOM Residential Services
Owner's Title Inc.

APPLICATION FOR RESELLER EXEMPTION

The original and four copies of the completed application and the supporting documentation should be mailed to:

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

AFTER HOURS EMERGENCY NUMBER FOR WATER SERVICE IS 972-0828

REFUSE FOR COCONUT CREEK
OR POMPANO BEACH NOT
BILLED BY CITY OF MARGATE.

MARGATE CODE

ATTACHMENT I
WATER AND SEWERS

ACE REFUSE
MARY CUNNINGHAM
\$18.67 EACH MONTH
\$.70 RECYCLING
974-7500

Sec. 24-71. Rates established.

(A) The rates established herein are established as and for the residential, multiple and commercial rates for water and waste water service by the city utility department.

(B) The water service availability charge and consumption rate and the waste water service availability charge are applicable to users connected to the system. The water and waste water capacity reservation charge is applicable to all prospective users for which the city has provided available capacity, and who have applied for a building permit either from the City of Margate, the City of Coconut Creek or from Broward County. Said charge shall accrue from the time of building permit application until connection to the system. All capacity reservation charges shall be payable at the time of application for connection to the system. All capacity reservation charges shall be charged on a monthly basis prorated for each day until connection to the system.

(C) Utility rates are hereby established as follows:

WATER

(1) *Single-family residential* (Duplexes, triplexes, townhouses, mobile homes, and all dwellings subject to being served by an individual meter):

- (a) Service availability charge, per unit per month \$4.81
(b) Capacity reservation charge, per unit per month 2.26
(c) Consumption charge, per 1,000 gallons 1.14

= 10% TAX ON WATER ONLY

(2) *Multiple-metered residential* (Dwelling units such as condominiums and apartments which are not suitable for being served by an individual water meter and multiple metered mobile homes):

- (a) Service availability charge, per unit per month \$ 3.41
(b) Capacity reservation charge, per unit per month 1.60
(c) Consumption charge, per 1,000 gallons 1.14

(3) *Commercial*

Meter Size (in inches)	Service Availability Charge (\$/meter/month)	Consumption Charge (\$/1,000 gal/month)
1/2	\$ 5.00	\$1.14 for all size meters
3/4 and 1	17.50	
1 1/4 and 1 1/2	25.00	
1 3/4 and 2	60.00	
3	150.00	
4	225.00	
6	300.00	
8	450.00	
10	700.00	

ATTACHMENT IWATER

- (1) *Single-family residential.* (Duplexes, triplexes, townhouses, mobile homes, and all dwellings subject to being served by an individual water meter:
- (a) Service availability charge, per unit per month \$ 12.08
- (b) Capacity reservation charge, per unit per month..... 8.72
- (2) *Multiple-metered residential.* (Dwelling units such as condominiums and apartments which are not suitable for being served by an individual water meter and multiple-metered mobile homes):
- (a) Service availability charge, per unit per month \$ 9.81
- (b) Capacity reservation charge, per unit per month..... 3.54
- (3) *Commercial:*
- (a) Service availability charge, one hundred (100) per cent of water bill or \$ 14.76 per month, whichever is larger.
- (b) Capacity reservation charge, per ERC per month..... \$4.58
- (D) The water and sewer utility deposits provided by customers for new accounts may be returned to said customers based upon the following:
- (1) The customer's account has not been shut off due to non-payment of account for a period of one (1) year (any time considered shall be from and after April 1, 1981).
 - (2) The customer shall submit a request in writing to the City of Margate for return of said deposit.
 - (3) Notwithstanding the above, should the administration of the city determine that a customer's account has not demonstrated that same has been paid in a consistent, timely manner based upon previous records, or that there is a likelihood that security is necessary to ensure the prompt payment of water and sewer charges, then that customer shall not be entitled to a refund of his deposit.

All new accounts (or account where deposits have been returned but customers had water and sewer service subsequently disconnected for nonpayment of bills) shall be required to pay the following deposits:

	Meter Size				
	¾"	1"	1½"	2"	3"
Residential	\$60.00	\$100.00	\$200.00	\$300.00	"
Multifamily		\$35.00 per unit			"
Commercial	70.00	150.00	250.00	325.00	"

*Over 2" shall be by agreement.

(E) The following provisions shall apply to surcharges for discontinuation of services and to surcharges for resumption of services:

- (1) There shall be imposed a surcharge of ten dollars (\$10.00) for each time that sewer and/or water services are discontinued because of the failure to pay charges for same. There further shall be a ten dollar (\$10.00) surcharge for resumption of sewer and/or water services necessitated by the failure to pay charges for same.
- (2) There shall be imposed a surcharge of ten dollars (\$10.00) for discontinuance or resumption of sewer and/or water

ATTACHMENT II

The proposed water and sewer rates and charges for the tenants of the Banyan Bay Apartment community will not exceed the current rates and charges of the City of Margate (suppliers to Banyan Bay apartments). This property is classified as multi-metered residential and lies within the city limits of Coconut Creek and is billed by the City of Margate Utility. As part of the resellers rates and charges schedule, we propose the following allocation for consideration:

WATER Minimum charge

The City of Margate Utility charges their multi-family water users a service availability charge, per apartment unit, per month of \$ 3.41. There is a eight percent (8%) utility tax on this amount. This would then be considered the minimum charge for water per apartment unit per month.

Metered consumption

There is no minimum or maximum usage. All consumption is measured per 1,000 gallons at a rate of \$ 1.14 per 1,000 gallons of usage. There is a Utility tax of eight percent (8%) on all metered water consumption.

SEWER Minimum charge

The City of Margate Utility charge their multi-family sewer users a service availability charge, per apartment unit, per month in the amount of \$ 9.81. There is **no tax** on this amount. This would then be considered the minimum charge for sewer per apartment, per month.

Metered consumption

There is **not** a usage charge for sewer service.

NOTE: The capacity reservation charge as indicated on attachment I of the rates and charges for both water and sewer is not in effect at this time. The copy of the actual bills, labeled as '**Exhibit A**' reflect it's absence.

ATTACHMENT III

Banyan Bay Apartments will **not** have individual water meters installed in each apartment unit (416 total units) to register the amount of water consumed. The residents of Banyan Bay will be charged for water and sewer service by means of an **allocation** based upon the **existing allocated service availability charges** for both water and sewer from the City of Margate and the occupancy of their leased apartment unit.

Banyan Bay is billed for consumption from twenty three (23) individual water meters located on the property. Each of the nineteen apartment buildings has it's own water meter. The remaining four meters are for common water usage. For the purpose of this allocation, only the nineteen building meters are figured in the calculations. Common water usage is not allocated or charged to the residents of Banyan Bay.

When the master bills for the apartment community are received from the local supplier or utility, the billing company will pro rate or **allocate** the bills for each individual apartment unit. These bills will be for the **same period of time** as that of the local utility. The bills will be mailed to the residents within **two** business days of the receipt of the master bill. The total recorded on the bill will reflect the proportionate cost of water, sewer and any associated taxes. The resident is expected to remit that amount on a monthly basis. In no case will the total amount billed to the residents ever exceed the total amount billed by the local utility to the community.

ATTACHMENT IV

Typical Rate Schedule

Below is a **sample** billing received from the City of Margate Utilities for Banyan Bay apartments and the resulting sample of an **allocated** individual resident bill. Some **actual** building bills are enclosed and marked as **exhibit 'A'**

Assumptions:

1. Total consumption from the nineteen (19) individual building master meters equaled 1,977,300 gallons.
2. Banyan Bay contains four floor plans with accurate statistical occupancy data for each floor plan.
3. The water variable cost of \$ 1.14 plus tax is the only cost allocated by occupancy.

The Banyan Bay master metered bills total

Consumption of 1,977,300 gallons	
Water	\$ 3,672.68
Sewer	4,080.96
Tax	<u>293.81</u>
Total	\$ 8,047.45

Calculations for above:

Water = 416 units x \$ 3.41 =	\$ 1,418.56	
1,977.3 x \$ 1.14 =	2,254.12	
Total water =		\$ 3,672.68
Sewer = 416 units x \$ 9.81 =		4,080.96
Tax = .08 x \$ 3,672.68 =		<u>293.81</u>
Total		\$ 8,047.45

Individual resident bill

Basis of calculations:

1. The service availability charge for water per apartment is \$ 3.41 as indicated in attachment I, plus an eight percent (8%) utility tax.
2. The total amount of residents in all 416 apartment units is known to be 604 persons. The occupancy per floor plan is also known.
3. The service availability charge for sewer per apartment is \$ 9.81 as indicated in attachment I.
4. Consumption of 1,977.3 gallons x \$ 1.14 plus tax = \$ 2,254.12 x 1.08 = \$ 2,434.45 divided by 604 residents = \$ 4.03
5. All apartment units are fully occupied.

ATTACHMENT IV
continued

The individual apartment bill

Banyan Bay contains four floor plans consisting of the following occupancy:

Plan	Plan Type	Persons per Unit*	Number of Units of this Type
A-1	1-Bd-Rm, 1-Bath	1.14	116
A-2	1-Bd-Rm, 1-Bath	1.36	124
B-1	2-Bd-Rm, 1-Bath	1.73	40
B-2	2-Bd-Rm, 2-Bath	1.72	136

Calculations:

A-1 = $1.14 \times \$ 4.03^{**} = \$ 4.59 + \$ 3.68^{**} + \$ 9.81 = \$ 18.08 \times 116 = \$ 2,097.28$

A-2 = $1.36 \times \$ 4.03^{**} = \$ 5.48 + \$ 3.68^{**} + \$ 9.81 = \$ 18.97 \times 124 = \$ 2,352.28$

B-1 = $1.73 \times \$ 4.03^{**} = \$ 6.97 + \$ 3.68^{**} + \$ 9.81 = \$ 20.46 \times 40 = \$ 818.40$

B-2 = $1.72 \times \$ 4.03^{**} = \$ 6.93 + \$ 3.68^{**} + \$ 9.81 = \$ 20.42 \times 136 = \$ 2,777.12$

Total billed to residents **\$ 8,045.08**

Accountability

A. Master bill	\$ 8,047.45
B. Individual bills	\$ 8,045.08
C. B does not exceed A	

* Statistical data for occupancy per unit is kept monthly and would be calculated each month or as occupancy changes.

** An eight percent (8%) utility tax is included in these amounts.

FINANCE DEPARTMENT
PO BOX 4459 MARGATE FL 33063

READING DATE FROM 10/16 TO 11/14

READING DATE	READING DATE	CONSUMPTION	CODE	AMOUNT
86113	88C12	1859	C1	284.69
			C2	156.20
			C5	22.78

POSTAGE
FIRST CLASS MAIL
U.S. POSTAGE PAID
PERMIT NO. 2411

EXHIBIT 'A'

BANYAN BAY/PL 2

4500 W. ATLANTIC BL
CCCC CRK, FL 33066

NOV 29 1995

YOUR ACCOUNT NUMBER MUST BE INCLUDED ON ALL CORRESPONDENCE

ACCOUNT NO 7C 5221 3
AMOUNT DUE \$503.67

SEE REVERSE SIDE FOR DUES AMOUNT DUE 503.67

SERVICE ADDRESS 4203 W ATLANTIC BL
CURRENT CHGS PAST DUE AFTER 12/19/95
PLEASE WRITE YOUR A/C # ON CHECK 7C 5221 3

WE'RE PRINTING IN PINK!
PLEASE PRINT ENTIRE BILL

BY MAIL/RETURN THIS STUB

CITY OF MARGATE
FINANCE DEPARTMENT
PO BOX 4459 MARGATE FLORIDA 33063

READING DATE FROM 10/16 TO 11/14

READING DATE	READING DATE	CONSUMPTION	CODE	AMOUNT
68299	69299	1000	C1	182.20
			C2	156.20
			C5	14.58

POSTAGE
FIRST CLASS MAIL
U.S. POSTAGE PAID
PERMIT NO. 2411

BANYAN BAY/PL 4

4500 W. ATLANTIC BL
CCCC CRK, FL 33066

NOV 29 1995

YOUR ACCOUNT NUMBER MUST BE INCLUDED ON ALL CORRESPONDENCE

ACCOUNT NO 7C 5241 7
AMOUNT DUE \$392.98

SEE REVERSE SIDE FOR DUES AMOUNT DUE 392.98

SERVICE ADDRESS 4103 W ATLANTIC BL
CURRENT CHGS PAST DUE AFTER 12/19/95
PLEASE WRITE YOUR A/C # ON CHECK 7C 5241 7

WE'RE PRINTING IN PINK!
PLEASE PRINT ENTIRE BILL

BY MAIL/RETURN THIS STUB

CITY OF MARGATE
FINANCE DEPARTMENT
PO BOX 4459 MARGATE FLORIDA 33063

READING DATE FROM 10/16 TO 11/14

READING DATE	READING DATE	CONSUMPTION	CODE	AMOUNT
127414	128390	976	C1	179.46
			C2	156.20
			C5	14.36

POSTAGE
FIRST CLASS MAIL
U.S. POSTAGE PAID
PERMIT NO. 2411

BANYAN BAY/PL 6

4500 W. ATLANTIC BL
CCCC CRK, FL 33066

NOV 29 1995

YOUR ACCOUNT NUMBER MUST BE INCLUDED ON ALL CORRESPONDENCE

ACCOUNT NO 7C 5271 8
AMOUNT DUE \$390.02

SEE REVERSE SIDE FOR DUES AMOUNT DUE 390.02

SERVICE ADDRESS 4201 W ATLANTIC BL
CURRENT CHGS PAST DUE AFTER 12/19/95
PLEASE WRITE YOUR A/C # ON CHECK 7C 5271 8

WE'RE PRINTING IN PINK!
PLEASE PRINT ENTIRE BILL

BY MAIL/RETURN THIS STUB

ATTACHMENT V

The Banyan Bay Apartments **will not** require deposits from the residents for sewer and water services.

ATTACHMENT VI

Common water usage **will not** be billed to the residents of Banyan Bay Apartments.

ATTACHMENT VII

The Banyan Bay 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 resident who's check is returned from the bank for lack of funds will be charged a NFS fee of \$ 25.00.
3. The Banyan Bay 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 residents.

CHAPTER 25-30.111, F.A.C.
EXEMPTION FOR RESELLER 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 25-30.111, 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:

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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.

**SECTION 367.122, FLORIDA STATUTES
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.
367.122

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 25-30.263, F.A.C.
METER TEST METHODS**

(1) Each utility shall test its displacement type cold water meters on at least the three rates of flow set forth in the following chart:

Meter Size Inches	Normal Test Flow Limits		Test Flow Gallons Per Minute		
	GPM		Minimum	Median	Maximum
5/8	1	- 20	1/4	2	15
3/4	2	- 30	1/2	3	25
1	3	- 50	3/4	4	35
1-1/2	5	- 100	1-1/2	8	50
2	8	- 160	2	15	100
3	16	- 300	4	20	150
4	28	- 500	7	40	200
6	48	- 1000	12	60	500

(2) Each utility shall test its current, compound and fire-service type meters on at least three rates of flow: one at the minimum test flow and two or more within the normal test flow limits of the table set forth in subsection (1) of this rule, with the upper test flow to be at a rate as high as practicable.

(3) Each utility shall test its compound meters within the "changeover" range of flows to determine overall operational efficiency and accuracy of registration.

(4) A utility may test any displacement type meter after installation if the meter is three inches or larger. However, each utility shall test its current, compound and fire-service type meters in place to achieve maximum accuracy, and may install a test tee in the outlet piping to facilitate and reduce the cost of testing for meters which are three inches or larger.

(5) Each utility may affix a seal to each of its tested and adjusted meters. The utility may affix the seal in such manner that it would have to be broken before any adjustment to meter registration could be achieved.

General Authority: 367.121, F.S.

Law Implemented: 367.122, F.S.

History: Amended 9/12/74, formerly 25-10.90, Transferred from 25-10.090 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 25-30.265, F.A.C.
PERIODIC METER TESTS

Each utility shall inspect and test a representative sample of its meters in service at least once during the intervals set out in this rule.

<u>Size of Meter</u>	<u>Maximum Interval Between Tests</u>
5/8"	10 years
3/4"	8 years
1"	6 years
1-1/2"	4 years
2"	4 years
3"	3 years
4"	2 years
6"	1 year

General Authority: 367.121, F.S.

Law Implemented: 367.122, F.S.

History: Amended 9/12/74, formerly 25-10.93, Transferred from 25-10.093 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

facility. The utility shall provide a detailed estimate of such costs and may require payment of such costs prior to the actual meter test. If the meter is found to be running fast in excess of the limits established by these rules, such costs shall be refunded, but if within the allowable limit, the utility may retain the costs.

Specific Authority: 367.121, F.S.

Law Implemented: 367.122, F.S.

History: Amended 9/12/74, 1/4/79, 10/11/83, formerly 25-10.94,
Transferred from 25-10.094 and Amended 11/9/86.

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.

(10) "Service area" means the geographical area described in a certificate of authorization, which may be within or without the boundaries of an incorporated municipality and may include areas in more than one county.

(11) "System" means facilities and land used or useful in providing service and, upon a finding by the commission, may include a combination of functionally related facilities and land.

(12) "Utility" means a water or wastewater utility and, except as provided in s. 367.022, includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation.

(13) "Wastewater" means the combination of the liquid and water-carried pollutants from a residence, commercial building, industrial plant, or institution, together with any groundwater, surface runoff, or leachate that may be present.

History.—

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

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;

- (c) For an exemption pursuant to Section 367.022(3), Florida Statutes, a statement from the manufacturer that service is provided solely in connection with its operations; stating whether it provides water service, wastewater service or both; and specifying the service area;
- (d) For an exemption pursuant to Section 367.022(4), Florida Statutes, a statement from the public lodging establishment that service is provided solely in connection with service to its guests; stating whether it provides water service, wastewater service or both; and specifying the service area;
- (e) For an exemption pursuant to Section 367.022(5), Florida Statutes, a statement from the landlord that it provides service solely to tenants; that charges for service are non-specifically contained in rental charges; stating whether it provides water service, wastewater service or both; and specifying the service area. A copy of the landlord's most recent version of a standard lease or rental agreement, shall be submitted with the application;
- (f) For an exemption pursuant to Section 367.022(6), Florida Statutes, a statement from the owner of the system that the system has or will have the capacity to serve 100 or fewer persons; stating whether it provides water service, wastewater service or both; and specifying the service area. The applicant shall submit documentation verifying the capacity of the system(s). For a wastewater system, the capacity of both the treatment and disposal facilities shall be documented;
- (g) For an exemption pursuant to Section 367.022(7), Florida Statutes, a statement from the corporation, association, or cooperative that it is nonprofit; that it provides service solely to members who own and control it; stating whether it provides water service, wastewater service or both; specifying who will do the billing for such service; and specifying the service area. The applicant must submit its articles of incorporation as filed with the Secretary of State and its bylaws, which documents must clearly show the requirements for membership, that the members' voting rights are one vote per unit of ownership, and the circumstances under which control of the corporation passes to the non-developer members. Control of the corporation must pass: 1) at 51 percent ownership by the non-developer members or, 2) at some greater percentage delimited by a time period not to exceed 5 years from the date of incorporation.

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.

CHAPTER 367

WATER AND WASTEWATER SYSTEMS

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367.011 Jurisdiction; legislative intent.—

(1) This chapter may be cited as the "Water and Wastewater System Regulatory Law."

(2) The Florida Public Service Commission shall have exclusive jurisdiction over each utility with respect to its authority, service, and rates.

(3) The regulation of utilities is declared to be in the public interest, and this law is an exercise of the police power of the state for the protection of the public health, safety, and welfare. The provisions of this chapter shall be liberally construed for the accomplishment of this purpose.

(4) This chapter shall supersede all other laws on the same subject, and subsequent inconsistent laws shall supersede this chapter only to the extent that they do so by express reference. This chapter shall not impair or take away vested rights other than procedural rights or benefits.

History.—s. 1, ch. 71-278, § 3, ch. 76-166, § 1, ch. 77-457, ss. 1, 25, 26, ch. 80-99, ss. 2, 3, ch. 81-318, ss. 6, 15, ch. 82-25, ss. 1, 25, 27, ch. 89-253, § 4, ch. 91-429.

367.021 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. 373.1952.

(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.

(10) "Service area" means the geographical area described in a certificate of authorization, which may be within or without the boundaries of an incorporated municipality and may include areas in more than one county.

(11) "System" means facilities and land used or used in providing service and, upon a finding by the commission, may include a combination of functionally related facilities and land.

(12) "Utility" means a water or wastewater utility and, except as provided in s. 367.022, includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide water or wastewater service to the public for compensation.

(13) "Wastewater" means the combination of the liquid and water-carried pollutants from a residence, commercial building, industrial plant, or institution, together with any groundwater, surface runoff, or leachate that may be present.

History.—s. 1, ch. 71-278, § 3, ch. 76-166, § 1, ch. 77-457, ss. 2, 25, 26, ch. 80-99, ss. 2, 3, ch. 81-318, ss. 2, 25, 27, ch. 89-253, § 4, ch. 91-429.

367.022 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. 2, ch. 76-168, s. 1, ch. 77-457, ss. 2, 25, 26, ch. 80-48, ss. 2, 3, ch. 81-318, s. 1, ch. 85-85, ss. 4, 25, 27, ch. 89-203, s. 4, ch. 91-429, s. 4, ch. 92-25.

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. 2, ch. 76-168, s. 1, ch. 77-457, ss. 2, 25, 26, ch. 80-48, ss. 2, 3, ch. 81-318, s. 1, ch. 85-85, ss. 4, 25, 27, ch. 89-203, s. 4, ch. 91-429, s. 4, ch. 92-25.

Section 2, 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. 71-778, § 2, ch. 76-168, § 1, ch. 77-457, § 53, ch. 78-95, § 1, 2, ch. 79-19, §§ 14, 25, 26, ch. 80-99, §§ 2, 3, ch. 81-318, §§ 15, 25, 27, ch. 82-222, § 4, ch. 91-429, § 10, ch. 93-25.

*Notes.—*Section 2, 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. 71-778, § 2, ch. 76-168, § 1, ch. 77-457, § 53, ch. 78-95, §§ 15, 25, 26, ch. 80-99, §§ 2, 3, ch. 81-318, §§ 15, 25, 27, ch. 82-222, § 4, ch. 91-429, § 11, ch. 93-25.

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 & 100 ch. 73-233 & 3 ch. 76-166 & 1, ch. 77-457, ss. 16, 25, 26, ch. 80-99, ss. 2, 3, ch. 81-318, ss. 17, 26, 27, ch. 85-353 & 4, ch. 91-29

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 & 3 ch. 76-166 & 1, ch. 77-457, ss. 17, 25, 26, ch. 80-99 & 2, ch. 81-259, ss. 2, 3, ch. 81-318, ss. 18, 26, 27, ch. 85-353 & 4, ch. 91-29

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. 367.071. 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. 85-263 & 5, ch. 90-166 & 4, ch. 91-28

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 90 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 characterization, 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 defining 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. 71-126; 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 § 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. 2, ch. 71-126; s. 1, 2, ch. 72-118; s. 2, ch. 72-724; s. 5, ch. 74-382; 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. 2, 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. 88-281

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 on 77-126 s. 6 on 74-263 s. 1 on 77-97 s. 1 on 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.—s. 2 on 77-52 s. 20 on 80-146 s. 2 on 83-219 s. 8 on 85-326 s. 2 on 91-27 s. 2 on 93-9.
Note.—Section 2 on 93-9 provides for applicability to crimes 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 on 84-250 s. 9 on 87-155 s. 49 on 90-120.

Note.—Section 49 on 90-120 amended subsection (1), effective July 1, 1990, 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 or 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
 - 2. 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. 77-136; s. 7, ch. 74-583; s. 1, ch. 75-118; s. 2, ch. 75-258; s. 1, ch. 77-174; s. 6, ch. 86-121; s. 1, ch. 89-280; s. 2, ch. 93-406.

Notes.—

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

(a) A sentence for a controlled substance offense under s. 893.13(1)(a) or (1)(b), 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 Central Release Authority who is serving:

(a) A sentence for a controlled substance offense under s. 893.13(1)(a) or (1)(b), 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.

3. shall be released into supervision under s. 948.001(2), 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 of 53-426 provides for the repeal of s. 28 of 53-426 effective June 1, 1995.

B. Section 29 of 53-426 provides that:

(1) Any inmate who is sentenced under s. 893.13(1)(a) or (1)(b), 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 reception transfer in the following order of priority:

(a) Inmates sentenced under s. 893.13(1)(a) or (1)(b), 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 reception transfer occurs whenever the release of eligible inmates under control release ceases the total number of eligible inmates with advanceable control release dates is 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 or earlier 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 of 53-426 provides for the repeal of s. 29 of 53-426 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. 2 of 53-426.

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 53-121.

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 53-121; 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.
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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. 52, 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. 1837, 1868; FS 2563 GS 3472; RGS 5341 COL 7474 & 997; FS 2563 & 54 ch. 74-383 & 32 ch. 75-298 & 205 ch. 81-224.

Repealed by 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. 1837, 1868; FS 2561 GS 3473; RGS 5341 COL 7477 & 998 ch. 71-136 & 53, ch. 74-383 & 32 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. 72-214 & 56, ch. 74-383 & 34, ch. 75-298 & 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 & 34, ch. 75-298 & 206, ch. 81-224.

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 & 34, ch. 75-298 & 207, ch. 81-224.

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. 90-125.

SAMPLE WATER BILL

E C B S
7121 Grand National Drive
Orlando , FL 32819

C E C B S
U 7121 Grand National Drive
Orlando , FL 32819

T

ACCT# LT0104
BILLING DATE AUG 17, 1994
PRESENT READING AUG 16 652
PREVIOUS READING 0
CONSUMPTION 652
WATER CHARGE \$ 6.69
SEWER CHARGE \$ 9.37
GARBAGE CHARGE \$ 3.00

H 420 LAKEBRIDGE PLAZA DR # 104
ACCT# LT0104
E RETURN THIS STUB
WITH PAYMENT.
R
WATER CHARGE \$ 6.69
E SEWER CHARGE \$ 9.37
GARBAGE CHARGE \$ 3.00

AMOUNT DUE AUG 26 \$ 19.06

AMT DUE AUG 26 \$ 19.06
AMT DUE AUG 27 \$ 21.06

FOR BILLING INQUIRIES, PLEASE CALL
(800) 845-8038

CAROLE & DORIS ALMOND
420 LAKEBRIDGE PLAZA DR # 104
ORLANDO BEACH, FL 32074

State of Florida

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JOE GARCIA



DIVISION OF RECORDS &
REPORTING
BLANCA S. BAYÓ
DIRECTOR
(904) 413-6770

Public Service Commission

May 29, 1996

Fred Peirce
c/o Banyan Bay Apartments Homes
2255 Glades Road, Suite 324 Atrium
Boca Raton, Florida 33431

Docket No. 960653-WS

Dear Mr. Peirce:

This will acknowledge receipt of a request from Florida Public Service Commission regulation for provision of water and wastewater service in Broward County by Banyan Bay Apartment Homes, which was filed in this office on May 24, 1996 and assigned the above-referenced docket number. Appropriate staff members will be advised.

A tentative schedule of events in your docket (referred to as a Case Assignment and Scheduling Record or CASR) should be available, upon request, ten (10) working days after establishment of the docket. You may contact the Records Section at (904) 413-6770 or by fax at (904) 413-7118 to request that a copy of the case schedule be faxed or mailed to you. The schedule of events provides you with an opportunity to anticipate completion stages of work in the docket. These dates are subject to change; therefore, you may wish to call the Records Section periodically to obtain revised schedules for your docket. For firm dates of hearings or other activities, please look to the Commission's official notices and orders. You can also obtain information on your docket by accessing the PSC HomePage on the Internet, at <http://www.state.fl.us/psc/>.

Sincerely,

A handwritten signature in cursive script that reads "Matilda Sanders".

Matilda Sanders
Commission Deputy Clerk