

YANKEETOWN 7/1/2012  
 ZEPHYRHILLS 9/1/2017  
 ZOLFO SPRINGS 5/1/2013

Rulemaking Authority 163.3191(1), 163.3191(5) FS. Law Implemented 163.3191 FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Ray Eubanks, Community Program Administrator,  
 Department of Economic Opportunity, 107 East Madison  
 Street, Caldwell Building, MSC 160, Tallahassee, Florida  
 32399-4120, (850)717-8483

NAME OF AGENCY HEAD WHO APPROVED THE  
 PROPOSED RULE: Hunting F. Deutsch

DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: May 15, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: March 2, 2012

### Section III Notices of Changes, Corrections and Withdrawals

**DEPARTMENT OF AGRICULTURE AND CONSUMER  
 SERVICES**

**Division of Consumer Services**

RULE NOS.:	RULE TITLES:
5J-17.016	Time for Compliance With Final Order; Probation
5J-17.029	Application Deadlines
5J-17.030	Certification of Eligibility for Examination and Notification to Applicants
5J-17.0321	Examination Administration
5J-17.0322	Licensure Examination Format and Procedures for Candidates with Disabilities
5J-17.034	Grading
5J-17.036	Grades Review Procedure
5J-17.039	Licensure, Inactive Status, Delinquent Status, Reactivation
5J-17.047	Approval of Continuing Education Courses
5J-17.080	Citations
5J-17.082	Mediation
5J-17.208	Pre-examination Continuing Education Program for Foreign Trained Exiled Professionals

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 47, November 24, 2010 issue of the Florida Administrative Weekly.

5J-17.016 Time for Compliance With Final Order; Probation.

(1) through (4) No change.

Rulemaking Authority 472.008 FS. Law Implemented 472.0202, 472.0351 FS. History–New 2-23-05, Formerly 61G17-2.006, Amended \_\_\_\_\_.

5J-17.029 Application Deadlines.

(1)(a) No change.

(b) A person wishing to apply for licensure by examination or licensure by endorsement shall submit a completed application to the Board by applying online at: <https://csapp.800helpfla.com/csrep/>. In lieu of completing an application online, an applicant shall obtain the application entitled “Board of Professional Surveyors and Mappers Application For Licensure By Examination or Endorsement”, DACS-10050, Rev. 02/12, hereby incorporated by reference. Copies of the form may be obtained from the Board office or accessed online at: <http://www.flrules.org/Gateway/reference>. Applications deemed complete by the Board will be reviewed by the board or contracted vendor its designee, to determine eligibility at a date and time scheduled by the Board.

(c) A person wishing to apply for licensure as a surveyor intern shall submit a completed application to the Board by applying online at: <https://csapp.800helpfla.com/csrep/>. In lieu of completing an application online, an applicant shall obtain the application entitled “Board of Professional Surveyors and Mappers Application For Licensure As Surveyor In Training”, DACS-10055, Rev. 02/12, hereby incorporated by reference. Copies of the form may be obtained from the Board office or accessed online at: <http://www.flrules.org/Gateway/reference>. Applicants applying for the Surveyor-in-Training (SIT) examination shall submit their completed application no less than 90 days prior to scheduled examination or no less than 35 days prior to a scheduled meeting.

(d) Applicants for reexamination shall submit their completed applications no less than 21 days prior to the scheduled examination deadline set by the Department or contracted vendor its designee.

(2)(a) An applicant will be rescheduled by the Department or contracted vendor their designee for the next available examination if the applicant is unable to sit for the originally scheduled examination by reason of military service and submits to the Board a copy of the applicant’s military orders or a letter from the applicant’s commanding officer.

(b) An applicant’s examination will be rescheduled by the Department or contracted vendor, their designee if the applicant demonstrates that there was a death in the immediate family, serious injury, illness, or other physical impairment which prevented the candidate from taking the examination. Any such request to reschedule an examination shall include a copy of a death notice or death certificate or a statement from

the applicant's treating physician which attests that such injury, illness or physical impairment prevented the applicant from taking the examination.

(c) No change.

Rulemaking Authority 472.008 FS. Law Implemented 472.011, 472.0131, 472.015, 472.0365 FS. History--New \_\_\_\_\_.

5J-17.030 Certification of Eligibility for Examination and Notification to Applicants.

(1) through (6) No change.

Rulemaking Authority 472.008 FS. Law Implemented 120.60, 472.0131(1), 472.015 FS. History--New \_\_\_\_\_.

5J-17.0321 Examination Administration.

(1) through (3) No change.

(4) ~~All Department administered examinations will be administered in accordance with the applicable Department standard.~~ Administration requirements set forth by any national board and council will be complied with in the administration of the specific examination.

(5) through (8) No change.

(9) Any individual found by the Department or the Board to have engaged in conduct which subverts or attempts to subvert the examination process shall have his or her scores on the examination withheld and/or declared invalid, be disqualified from the practice of the profession, and/or be subject to the imposition of penalties authorized under Chapter 472, Florida Statutes, including but not limited to, criminal penalties under Section 472.0132, Florida Statutes or Section 472.031, Florida Statutes, as well as the administrative penalties set forth at Section 472.0351(2), Florida Statutes ~~other appropriate sanctions by the Board.~~

(10) through (12) No change.

Rulemaking Authority 472.0131 FS. Law Implemented 472.0131 FS. History--New \_\_\_\_\_.

5J-17.0322 Licensure Examination Format and Procedures for Candidates with Disabilities.

(1) through (5) No change.

(6) Definition of Terms.

(a) A person with disabilities means any person who:

1. Has a physical, mental, or specific learning disability which presently substantially limits one or more major life activities;

2. Has a record of such a disability; or

3. Is regarded as having such a disability. An individual meets the requirement of "being regarded as having such a disability" if the individual establishes that he or she has an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

(b) through (e) No change.

Rulemaking Authority 472.008 FS. Law Implemented 472.0131 FS. History--New \_\_\_\_\_.

5J-17.034 Grading.

(1) through (2) No change.

(3) The organization must be generally recognized by practitioners across the nation in the form of representatives from the State Boards or shall have membership representing a majority ~~substantial number~~ of the nation's or states' practitioners who have been licensed through the national examination.

(4) through (5) No change.

(6) Grading Criteria and Passing Scores:

(a) No change.

(b) The Florida Jurisdictional Multiple Choice Examination consists of 100 multiple choice questions developed by the Department, or the Department's contracted vendor designee. The multiple choice questions will be weighted equally and machine graded. Scores for the multiple choice portion shall be determined by the applicant's ability to choose the correct answer from several given choices. A passing grade on the Florida Jurisdictional Multiple Choice Examination is defined as 70% of the total possible points.

(c) No change.

(7) No change.

(8) Departmentally developed objective, multiple choice examinations shall be graded by the Department or contracted vendor designee. The Department or the Department's contracted vendor designee shall review the item analysis and any statistically questionable items after the examination has been administered. Based upon this review, the Department or the Department's contracted vendor designee shall adjust the scoring key by totally disregarding the questionable items for grading purposes or by multi-keying, giving credit for more than one correct answer per item. All items which do not adequately and reliably measure the applicant's ability to practice the profession shall be rejected. The Department or its contracted vendor designee shall calculate each candidate's grade utilizing the scoring key or adjusted scoring key, if applicable, and shall provide each candidate with a grade report.

The only paper that shall be graded is the official answer sheet. No credit shall be given for answers written in a candidate's examination booklet.

(9) through (10) No change.

~~(11)(12)~~ The Department or contracted vendor designee shall inform each passing candidate of the candidate's status and provide necessary instructions for obtaining a license.

~~(12)(13)~~ No change.

Rulemaking Authority 472.0131 FS. Law Implemented 472.0131 FS. History--New 1-3-80, Amended 10-29-80, 4-19-82, 1-25-84, Formerly 21HH-4.03, Amended 9-16-87, 8-30-92, Formerly 21HH-4.003, Amended 9-7-93, 4-6-94, 5-30-95, 11-10-08, Formerly 61G17-4.003, Amended \_\_\_\_\_.

5J-17.036 Grades Review Procedure.

(1) No change.

(2) Those candidates who elect to exercise their right to review must submit a request in writing to the Department or the testing vendor. An examinee shall submit a completed form known as "Board of Professional Surveyors and Mappers Post Examination Review Request", DACS-10063, Rev. 02/12, hereby incorporated by reference. Copies of the form may be obtained from the Board office or accessed online at: <http://www.flrules.org/Gateway/reference>.

(a) ~~Written~~ ~~Unless otherwise provided in Board rule,~~ ~~written~~ requests must be received by the Department or vendor no later than twenty-one (21) days after the release date of the original grade notification. The issuance of an amended grade notice, if applicable, will not extend the deadline for a candidate to request a post-examination review, unless the amended grade notice affects the pass/fail status of the candidate.

(b) No change.

(3) No change.

(a) No change.

(b) All security rules defined in this Chapter, shall apply to all review sessions. Any candidate violating any provision of said rules shall be dismissed from the review session ~~and may be subject to other sanctions pursuant to applicable statutes or rules as determined by the Board.~~

(c) through (f) No change.

(g) Unless prohibited by ~~board rule or~~ national guidelines, candidates have the right to challenge any question which they believe may be ambiguous or any solution which they believe may be incorrect and to request a hearing if the challenge is found to be without merit. The challenges must be submitted in writing during the review. Any challenges or supporting documentation submitted after the candidate has left the review room shall not be accepted.

(h) No change.

(4) through (6) No change.

Rulemaking Authority 472.008, 472.013, 472.0131(3) FS. Law Implemented 472.013, 472.0131(3) FS. History--New 1-3-80, Formerly 21HH-4.06, 21HH-4.006, Amended 5-30-95, 5-17-00, 10-31-08, Formerly 61G17-4.006, Amended \_\_\_\_\_.

5J-17.039 Licensure, Inactive Status, Delinquent Status, Reactivation

(1) Biennial Licensing: Licensees, except as may be provided in Chapter 472, F.S., must renew their license each biennial period. Biennial period shall mean a period of time consisting of two 12 month calendar years. The biennial period

for the purposes of the Board shall commence and continue on March 1 of each odd numbered year. Each application for renewal shall be considered timely filed if the application has been postmarked by the United States Postal Service officer prior to midnight on the date of expiration of the license or has been delivered by the close of business on the date of expiration of the license or the licensee has submitted an electronic application for renewal through the Department's website, <https://csapp.800helpfla.com/csrep/>. ~~www.800helpfla.com~~. If that date falls on a Saturday, Sunday, or legal holiday, the day of expiration shall be the first working day after the expiration date on the license. In order to be complete, the application must have all appropriate spaces filled, be signed or otherwise authenticated by the licensee and include a money order, sufficiently funded check, or electronic draft in the correct amount. The licensee must meet all continuing education requirements as specified in this chapter.

(2) No change.

(3) Delinquent Status:

(a) No change.

(b) A delinquent status licensee may apply for active or inactive status any time during the biennial licensure cycle. A complete application, the renewal fee, and a delinquent fee shall be required. The license of a delinquent licensee that does not achieve active or inactive status before the end of the current biennial licensure period shall become null and void by operation of law and without further action by the Department or the Board. Subsequent licensure will require meeting all the requirements for initial licensure or complying with the procedure set forth in Rule 5J-17.048, F.A.C. Rule 5J-17.047, F.A.C.

Rulemaking Authority 472.006, FS. Law Implemented 472.006, 472.0202 FS. History--New \_\_\_\_\_.

5J-17.047 Approval of Continuing Education Courses.

(1) Continuing education courses shall be valid for purposes of the continuing education requirement only if such courses have received prior approval from the Board. The Board shall approve a course as a continuing education course for the purpose of this rule when the following requirements are met:

(a) Written application for course approval shall be received by the Board prior to the date the course is offered. A provider wishing to apply for continuing education course approval shall submit a completed application to the Board by completing the application entitled "Board of Professional Surveyors and Mappers Continuing Education Course Approval Application", DACS-10057, Rev. 02/12, hereby incorporated by reference. Copies of the form may be obtained from the Board office or accessed online at: <http://www.flrules.org/Gateway/reference>.

(b) through (4) No change.

Rulemaking Authority 472.008, 472.018 FS. Law Implemented 472.018 FS. History--New 8-18-03, Amended 6-23-05, 12-28-05, 6-20-06, Formerly 61G17-5.0051, Amended \_\_\_\_\_.

5J-17.080 Citations.

The offenses enumerated in this rule may be disciplined by the issuance of a citation by the Department of Agriculture and Consumer Services. The citation shall impose the prescribed fine, and the Department may impose the costs of the investigation. If the citation option is accepted by the licensee, the offense will not be brought to the attention of the probable cause panel of the Board.

(1) Citations shall be issued pursuant to Sections 472.0345 and 472.036, F.S. The Department shall only issue citations on Form DACS-10060, Rev. 02/12 entitled "Professional Surveyors and Mappers Uniform Disciplinary Citation", hereby incorporated by reference. Copies of the form may be obtained from the Board office or accessed online at: <http://www.flrules.org/Gateway/reference>.

(2) through (8) No change.

(9) All citations issued to unlicensed persons under this part shall be accompanied by a Notice and Order to Cease and Desist, as provided by Section 472.036(1), F.S. The Department shall only issue Notice and Orders to Cease and Desist on Form DACS-10061, Rev. 02/12, entitled "Notice To Cease And Desist Unlicensed Professional Surveying and Mapping", hereby incorporated by reference. Copies of the form may be obtained from the Board office or accessed online at: <http://www.flrules.org/Gateway/reference>.

Rulemaking Authority 472.008, 472.0345 FS. Law Implemented 472.0345, 472.0351, 472.036, FS. History--New 1-16-92, Formerly 21HH-9.004, Amended 2-20-96, 10-29-06, 6-11-07, Formerly 61G17-9.004, Amended \_\_\_\_\_.

5J-17.082 Mediation.

(1) through (7) No change.

(8) Violations of paragraphs 5J-17.010(6)(f) and Rule 5J-17.010(6)(g), F.A.C., concerning conflicts of interest, can be mediated pursuant to Section 472.034, F.S..

Rulemaking Authority 472.034 FS. Law Implemented 472.034 FS. History--New 5-30-95, Formerly 61G17-9.005, Amended \_\_\_\_\_.

5J-17.208 Pre-examination Continuing Education Program for Foreign Trained Exiled Professionals.  
No change.

(1) through (2) No change.

(3) Before a program is offered to an applicant as satisfying the requirements of this rule, such program shall be approved by the Department.

(a) Approval by the Department shall be based upon a finding by the Department that the program satisfies the following requirements:

1. Documentation of program content to demonstrate adequate training and coursework to prepare applicants for examination to practice the profession ~~as defined in Florida law and rules~~. Such training and coursework shall include a diagnostic evaluation of the applicant's completion of the program. Adequate training and coursework include attendance by applicant of no less than ninety (90) percent of the class sessions.

2. through (4)(b) No change.

Rulemaking Authority 472.0101 FS. Law Implemented 472.0101 FS. History--New \_\_\_\_\_.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-1.09981  
RULE TITLE: Implementation of Florida's System of School Improvement and Accountability

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 38, No. 5, February 3, 2012 issue of the Florida Administrative Weekly.

Sub-subparagraph (1)(a)1. b. and d. ; subparagraph (1)(a)3. and 5.; paragraph (2)(a); subparagraph (3)(a)1. and 2.; sub-subparagraphs (4)(a)2.e and g; subparagraph (4)(b)6.; sub-subparagraphs (4)(c)1. d. and e.; and paragraph (6)(e) are amended to read:

6A-1.09981 Implementation of Florida's System of School Improvement and Accountability.

(1) No change.

(a) No change.

1. School grades shall be based on a combination of:

a. No change.

b. Annual student learning gains as measured by FCAT 2.0 Reading and Mathematics (including Algebra 1 and Geometry EOC) and Florida Alternate Assessment ~~assessments~~ in applicable grades; and

c. No change.

d. For high schools, when data for the elements described in paragraph (4)(c) of this rule is available to meet the cell size requirements for the elements described in paragraph (4)(c) of this rule, for ten (10) or more students, the accountability system will also include graduation rates as measured by the federal uniform graduation rate according to 34 CFR § 200.19, which rate calculation is incorporated herein by reference, a five-year federal uniform rate, modified to include special diploma graduates, an at-risk graduation rate, participation and performance in accelerated mechanisms, and college readiness as measured by the ~~SAT, ACT, CPT, and~~ Postsecondary

Education Readiness Test (P.E.R.T.), or other common placement tests authorized under Rule 6A-10.0315, F.A.C., which is incorporated by reference herein.

2. No change.

3. Reading Performance Threshold. Beginning in the 2012-13 school year, a school that would otherwise qualify for a school grade of "D" or higher must have at least twenty-five (25) percent of their students' scoring at or above Achievement ~~Achievement~~ Level 3 on FCAT 2.0 Reading. A school that does not meet this requirements will have its grade reduced by one letter grade.

4. No change.

5. Adequate Progress Requirement for At-Risk Students for a High School Grade. A high school that would otherwise earn a grade of "A" must meet an additional requirement for adequate progress of at-risk students in order to be assigned a grade of "A" rather than one (1) letter grade lower ("B"). For such schools, the federal uniform graduation rate for academically at-risk students, according to 34 CFR § 200.19(b) as described in sub-subparagraph (4)(c)1.a. of this rule, must meet one or more of the following criteria to satisfy this requirement:

a. through c. No change.

(2) No change.

(a) The reading and mathematics assessment (FCAT, FCAT 2.0, statewide EOC assessment, and FAA) scores of all students, except English language learners (ELLs) who have been enrolled in school in the United States for less than one (1) year. Achievement data for Science and Writing (and, when available, Civics and U.S. History) will be based on scores on the FCAT, FCAT 2.0, FAA, and statewide EOC assessments for all students except English language learners (ELLs) who have been enrolled in school in the United States for less than one (1) year.

(b) through (c) No change.

(3) School Grades. The measure of school accountability shall be the school grade.

(a) The Commissioner is authorized to designate a school grade for each school that:

1. Has at least thirty (30) eligible students with valid FCAT 2.0 or Florida Alternate Assessment ~~assessment~~ scores in reading in both the current and the previous years, and

2. Has at least thirty (30) eligible students with valid FCAT 2.0 or EOC or Florida Alternate Assessment ~~assessment~~ scores in mathematics in the current and previous years, if the school is an accountability school type other than a high school. High schools must have at least ten (10) eligible students with valid Algebra 1 EOC or Florida Alternate Assessment ~~assessment~~ scores and beginning in 2012-13, at least ten (10) eligible students with valid Geometry 1 EOC assessment scores in mathematics in the current and previous years in order to receive a school grade. Performance designations shall be made using school grades A, B, C, D, and

F, as specified in Section 1008.34(2), F.S. School grades shall be based on the assessments and criteria as specified in subsection (4) of this rule.

(b) through (c) No change.

(4) Criteria for Designating School Grades. School grades shall be based on a combination of the following components:

(a) Components that apply to all school types:

1. through d. No change.

e. Learning gains for students with disabilities who have maintained the same FAA Performance Level below Performance Level 4 are established for students if their current-year score increases relative to their prior-year score by five (5) or more points more than the statewide standard error of the difference of the two scores.

f. No change.

3. No change.

g. Additional learning gains weighting is established for students who score at levels 1 and 2 on FCAT or levels 1, 2, and 3 on FAA and improve their scores by more than the minimum required to make a learning gain as described in sub-subparagraphs (4)(a)2.c. or e. Students whose score increases by 33% more than the required learning gain will be weighted as 1.1 in the numerator of the learning gains calculation.

(b) Additional components that apply to middle schools:

1. through 5. No change.

6. The school grading measures and requirements described in subparagraphs (4)(b)2., 3., and 5. of this rule shall be applied to middle schools for which there are at least ten (10) students included in the denominator of each component. For middle schools in which there are fewer than ten (10) students in the denominator of any one of these components, the school grade shall be determined using the components described in paragraph (4)(a) of this rule and shall not include any of the components described in subparagraphs (4)(b)2., 3., and 5. of this rule.

(c) Additional components that apply to high schools:

1. No change.

a. through c. No change.

d. Performance in accelerated coursework, defined as Advanced Placement (AP), International Baccalaureate (IB), dual enrollment, Advanced International Certificate of Education (AICE), and industry certification courses. Performance shall be calculated for the school by dividing the weighted number of grade 9-12 students with successful completions in accelerated coursework (numerator) by the count of all students in grades 9 through 12 who took an accelerated course or subject area examination during the academic year. For AP, IB, and AICE successful completion is defined as earning a passing score and qualifying for credit for specific postsecondary course(s) as determined by the Articulation Coordinating Committee's Credit by Exam

Equivalencies list, initially adopted November 14, ~~2001~~ 2011, with subsection revisions in 2010-2011, which is hereby incorporated by reference and may be obtained at <http://www.fldoe.org/articulation/pdf/ACC-CBE.pdf>. For dual enrollment successful completion is defined as a passing grade of “C” or higher in a dual enrollment course for college credit. For industry certification successful completion is defined as passing an industry certification examination on the Industry Certification Funding List adopted in Rule 6A-6.0573, F.A.C. Schools can earn additional successful completions for students who achieve industry certifications listed on the (Gold Standard Career Pathways Articulation Agreement that result in credit for more than one (1) college course), which is incorporated by reference herein and can be accessed at: <http://www.fldoe.org/workforce/dwdframe/aeticindcert2aas.asp> that result in credit for more than one (1) college course through statewide articulation agreements. Those agreements can be accessed at [http://www.fldoe.org/workforce/dwdframe/artic\\_frame.asp](http://www.fldoe.org/workforce/dwdframe/artic_frame.asp). Weighting of counts for students with successful completions. For each student identified as having successfully completed accelerated coursework, the weighted count that is assigned to the student is established at 1.0 for a student with one successful completion in accelerated coursework and is increased incrementally by 0.1 for each additional successful completion credited to the student. The weighted counts for all successful completers are summed to produce the numerator described in sub-subparagraph (4)(c)1.d. of this rule.

e. Postsecondary readiness. This measure consists of two separate components, one for reading and one for mathematics. For each subject area component, postsecondary readiness shall be calculated by dividing the count of on-time (within 4 years) high school graduates scoring “college ready” on ~~the SAT, ACT, the Common Placement Test (CPT), or the~~ Postsecondary Education Readiness Test (P.E.R.T.) or any college placement test authorized under Rule 6A-10.0315, F.A.C., at any time during their high school careers by the count of all on-time high school graduates in the federal uniform graduation rate. Readiness cutoff scores by subject area on the ~~ACT, SAT, CPT, and~~ P.E.R.T., and other authorized common placement tests are established in Rule 6A-10.0315, F.A.C. For students who have taken multiple tests among the ~~ACT, SAT, CPT, and~~ P.E.R.T., and other authorized common placement tests, the student’s highest score by subtest shall be used to determine postsecondary readiness for the applicable subject area component.

- f. No change.
- 2. No change.
- (5) No change.

(6) School Grading Scale. The school grading scale shall be determined separately for elementary schools, middle schools, high schools, and combination schools with graduating seniors.

(a) through (d) No change.

(e) If the 2011-12 school grade preliminarily calculated for a school based on the points earned in paragraph (5) and the grade scale in paragraph (6) is more than one (1) letter grade below the school’s grade in 2010-11, the points assigned based on subparagraphs (5)(a)1., 2., and 3. shall be adjusted such that the school’s letter grade for the 2011-2012 school year is reduced by no more than one (1) letter grade. The difference between 2011-12 points earned and the points necessary to receive a one (1) letter grade reduction will be allocated evenly across the components in subparagraphs (5)(a)1., 2., and 3. in order to ensure that a school’s grade is based upon the components of student achievement, learning gains and the improvement of the lowest 25th percentile as set forth in Section 1008.34, F.S. This adjustment shall be limited to the 2011-12 year. Any points added to a school’s grade as described in this paragraph shall not be used for any purpose when determining school grades in the school years subsequent to 2011-2012.

(7) through (9) No change.

Rulemaking Authority 1001.02, 1008.22, 1008.34, 1008.345 FS. Law Implemented 1008.22, 1008.34, 1008.345, 1008.36 FS. History—New 10-11-93, Amended 12-19-95, 3-3-97, 1-24-99, 2-2-00, 2-11-02, 12-23-03, 5-15-06, 6-19-08, 11-26-08, 11-12-09, 6-21-11, \_\_\_\_\_.

**DEPARTMENT OF REVENUE**

**Property Tax Oversight Program**

RULE NO.:	RULE TITLE:
12D-8.0065	Transfer of Homestead Assessment Difference; “Portability”; Sworn Statement Required; Denials; Late Applications

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 38, No. 14, April 6, 2012 issue of the Florida Administrative Weekly.

This proposed new rule was subsequently amended by publication of a notice of change in the Vol. 38, No. 20, May 18, 2012 issue of the Florida Administrative Weekly. The Department is removing all the provisions added by the first notice of change published in the May 18, 2012 edition of the Florida Administrative Weekly. This removal will give interested parties an opportunity to comment on the proposed additional provisions at a public hearing to be scheduled in the near future.

A revised version of this proposed rule will be available at: <http://dor.myflorida.com/dor/property/legislation/rules/10ruledrafts.html>. This revised version is identical to the version originally published in the Notice of Proposed Rule for proposed new Rule 12D-8.0065 in the April 6, 2012 edition of the Florida Administrative Weekly, except for: a correction to a statute cite in paragraph (6)(a) of this proposed new rule; and,

a provision added to paragraph (12)(b) of this rule to clarify that the mandatory payment of the \$15 fee is required by Section 193.155(8), F.S. Both of these changes are based on comments received from the Joint Administrative Procedures Committee of the Florida Legislature.

12D-8.0065 Transfer of Homestead Assessment Difference; "Portability"; Sworn Statement Required; Denials; Late Applications.

(1) For purposes of this rule, the following definitions apply.

(a) "The previous property appraiser" means the property appraiser in the county where the taxpayer's previous homestead property was located.

(b) "The new property appraiser" means the property appraiser in county where the taxpayer's new homestead is located.

(c) "The previous homestead" means the homestead which the assessment difference is being transferred from.

(d) "The new homestead" means the homestead which the assessment difference is being transferred to.

(e) "Assessment difference" means the difference between assessed value and just value attributable to Section 193.155, F.S.

(2) Section 193.155(8), F.S., provides the procedures for the transfer of the homestead assessment difference, within stated limits, when a homestead is abandoned. This rule describes those procedures, which are an alternative to assessment at just value. The amount of the assessment difference is transferred as a reduction to the just value of the interest owned by taxpayers that qualify and receive homestead exemption on a new homestead.

(a) This rule sets limits and requirements consistent with Section 193.155(8), F.S. A taxpayer may apply for the transfer of an assessment difference from a previous homestead property to a new homestead property if:

1. The taxpayer received a homestead exemption on the previous property on January 1 of one of the last two years before establishing the new homestead; and,

2. The previous property was abandoned as a homestead after that January 1; and,

3. The previous property was, or will be, reassessed at just value or assessed under Section 193.155(8), F.S., as of January 1 of the year after the year in which the abandonment occurred subject to Sections 193.155(8) and 193.155(3), F.S.; and

4. The taxpayer establishes a new homestead on the property by January 1 of the year they are applying for the transfer.

(b) Under Section 193.155(8), F.S., the transfer is only available from a prior homestead for which a taxpayer previously received a homestead exemption. For these rules:

1. If a husband and wife owned and resided on a previous homestead, each is considered to have received the homestead exemption, even if only one of them applied.

2. For joint tenants with rights of survivorship and for tenants in common, those who applied for, received the exemption, and resided on a previous homestead are considered to have received the exemption.

(3) To apply for portability, the taxpayer must file Form DR-501T, Transfer of Homestead Assessment Difference, (incorporated by reference in Rule 12D-16.002, F.A.C.), including a sworn statement, by March 1. Form DR-501T is submitted as an attachment to Form DR-501, Original Application for Ad Valorem Tax Exemption, (incorporated by reference in Rule 12D-16.002, F.A.C.).

(4) Within the limitations for multiple owners in subsection (5), the total which may be transferred is limited as follows:

(a) Upsizing – When the just value of the new homestead equals or is greater than the just value of the previous homestead, the maximum amount that can be transferred is \$500,000.

(b) Downsizing – When the just value of the new homestead is less than the just value of the previous homestead, the maximum amount that can be transferred is \$500,000. Within that limit, the amount must be the same proportion of the new homestead's just value as the proportion of the assessment difference was of the previous homestead's just value.

(5)(a) Transferring without splitting or joining – When two or more persons jointly abandon a single homestead and jointly establish a new homestead, the provisions for splitting and joining below do not apply if no additional taxpayers are part of either homestead. The maximum amount that can be transferred is \$500,000.

(b) Splitting – When two or more people who previously shared a homestead abandon that homestead and establish separate homesteads, the maximum total amount that can be transferred is \$500,000. Within that limit, each taxpayer who received a homestead exemption and is eligible to transfer an amount is limited to a share of the previous homestead's difference between assessed value and just value.

1. For tenants in common, this share is the difference between just value and assessed value for the tenant's proportionate interest in the property. This is the just value of the taxpayer's interest minus the assessed value of the taxpayer's interest.

2. For joint tenancy with right of survivorship and for a husband and wife, the share is the assessed value of the homestead portion of the property, divided by the number of owners that received the exemption, unless another interest share is on the title. In that case, the portion of the amount that may be transferred is the difference between just value and assessed value for the stated share.

3. The shares of the assessment difference cannot be sold, transferred, or pledged to any taxpayer. For example, if a husband and wife divorce and both abandon the homestead, they each take their share of the assessment difference with them. The property appraiser cannot accept a stipulation otherwise. The shares of the taxpayers that received the homestead exemption cannot total more than 100 percent.

(c) Joining – When two or more people, some of whom previously owned separate homesteads and received a homestead exemption, join together to qualify for a new homestead, the maximum amount that can be transferred is \$500,000. Within that limit, the amount that can be transferred is limited to the highest difference between assessed value and just value from any of the taxpayers' former homesteads.

(6) Abandonment.

(a) To transfer an assessment difference, a homestead owner must abandon the homestead before January 1 of the year the new application is made. To do this, the taxpayer must notify the property appraiser in writing by the time he or she applies for the new homestead exemption. To transfer the assessment difference, the previous homestead must be reassessed at just value as of January 1, subject to Sections 193.155(8) and 193.155(3), F.S., which provide for assessment at other than just value.

(b) In the case of joint tenants with right of survivorship, if only one owner moved and the other stayed in the original homestead, the homestead would not be abandoned. The one who moved could not transfer any assessment difference.

(c) To receive an assessment reduction under Section 193.155(8), F.S., a taxpayer may abandon his or her homestead even though it remains his or her primary residence by providing written notification to the property appraiser of the county where the homestead is located. This notification must be delivered before or at the same time as the timely filing of a new application for homestead exemption on the property. This abandonment will result in reassessment at just value as provided in subparagraph (2)(a)3. of this rule.

(7) Only the difference between assessed value and just value attributable to Section 193.155, F.S., can be transferred.

(a) If a property has both the homestead exemption and an agricultural classification, a taxpayer cannot transfer the difference that results from an agricultural classification.

(b) If a homeowner has a homestead and is receiving a reduction in assessment for living quarters for parents or grandparents under Section 193.703, F.S., the reduction is not included in the transfer. When calculating the amount to be transferred, the amount of that reduction must be added back into the assessed value before calculating the difference.

(8) Procedures for property appraiser:

(a) If the previous homestead was in a different county than the new homestead, the new property appraiser must transmit a copy of the completed Form DR-501T with a completed Form DR-501 to the previous property appraiser. If

the previous homesteads of taxpayers applying for transfer were in more than one county, each taxpayer from a different county must fill out a separate Form DR-501T.

1. The previous property appraiser must complete Form DR-501RVSH, Certificate for Transfer of Homestead Assessment Difference (incorporated by reference in Rule 12D-16.002, F.A.C.). By April 1 or within two weeks after receiving Form DR-501T, whichever is later, the previous property appraiser must send this form to the new property appraiser. As part of the information returned on Form DR-501RVSH, the previous property appraiser must certify that the amount transferred is part of a previous homestead that has been or will be reassessed at just value as of January 1 of the year after the year in which the abandonment occurred as described in subparagraph (2)(a)3. of this rule.

2. Based on the information provided on Form DR-501RVSH from the previous property appraiser, the new property appraiser calculates the amount that may be transferred and applies this amount to the January 1 assessment of the new homestead for the year applied for.

(b) If the transfer is from the same county as the new homestead, the property appraiser retains Form DR-501T. Form DR-501RVSH is not required. For a taxpayer that applied on time for the transfer of assessment difference, the property appraiser updates the ownership share information using the share methodology in this rule.

(c) The new property appraiser must record the following in the assessment roll submitted to the Department according to Section 193.1142, F.S., for the year the transfer is made to the homestead parcel:

1. Flag for current year assessment difference transfer;

2. Number of owners among whom the previous assessment difference was split. Enter 1 if previous difference was not split;

3. Assessment difference value transferred;

4. County number of previous homestead;

5. Parcel ID of previous homestead;

6. Year from which assessment difference value was transferred;

(d) Property appraisers that have information sharing agreements with the Department are authorized to share confidential tax information with each other under Section 195.084, F.S., including social security numbers and linked information on Forms DR-501, DR-501T, and DR-501RVSH.

(9) The transfer of an assessment difference is not final until all values on the assessment roll on which the transfer is based are final. If the values are final after the procedures in these rules are exercised, the property appraiser(s) must make appropriate corrections and send a corrected assessment notice. Any values that are in administrative or judicial review must be noticed to the tribunal or court for accelerated hearing and resolution so that the intent of Section 193.155(8), F.S., may be



fulfilled. This rule does not authorize the consideration or adjustment of the just, assessed, or taxable value of the previous homestead property.

(10) Additional provisions.

(a) If the information from the previous property appraiser is provided after the procedures in this section are exercised, the new property appraiser must make appropriate corrections and send a corrected assessment notice.

(b) The new property appraiser must promptly notify a taxpayer if the information received or available is insufficient to identify the previous homestead and the transferable amount. This notice must be sent by July 1.

(c) If the previous property appraiser supplies enough information to the new property appraiser, the information is considered timely if provided in time to include it on the notice of proposed property taxes sent under Sections 194.011 and 200.065(1), F.S.

(d) If the new property appraiser has not received enough information to identify the previous homestead and the transferable amount in time to include it on the notice of proposed property taxes, the taxpayer may file a petition with the value adjustment board in the county of the new homestead.

(11) Denials.

(a) If the taxpayer is not qualified for transfer of any assessment difference, the new property appraiser shall send Form DR-490PORT, Notice of Denial of Transfer of Homestead Assessment Difference, (incorporated by reference in Rule 12D-16.002, F.A.C.) to the taxpayer by July 1 and include the reasons for the denial.

(b) Any property appraiser who sent a notice of denial by July 1 because he or she did not receive sufficient information to identify the previous homestead and the amount which is transferable, may grant the transfer after receiving information from the previous property appraiser showing the taxpayer was qualified. If a petition was filed based on a timely application for the transfer of an assessment difference, the value adjustment board shall refund the taxpayer the \$15.

(c) Petitions of denials may be filed with the value adjustment board as provided in Rule 12D-9.028, F.A.C.

(12) Late applications.

(a) Any taxpayer qualified to have property assessed under Section 193.155(8), F.S., who fails to file for a new homestead on time in the first year following eligibility may file in a subsequent year. The assessment reduction shall be applied to assessed value in the year the transfer is first approved. A refund may not be given for previous years.

(b) Any taxpayer who is qualified to have his or her property assessed under Section 193.155(8), F.S., who fails to file an application by March 1, may file an application for assessment under that subsection and, under Section

194.011(3), F.S., may file a petition with the value adjustment board requesting the assessment be granted. The petition may be filed at any time during the taxable year by the 25th day following the mailing of the notice by the property appraiser as provided in Section 194.011(1), F.S. In spite of Section 194.013, F.S., the taxpayer must pay a nonrefundable fee of \$15 when filing the petition, as required by paragraph (i) of Section 193.155(8), F.S. After reviewing the petition, the property appraiser or the value adjustment board may grant the assessment under Section 193.155(8), F.S., if the property appraiser or value adjustment board find the taxpayer is qualified and demonstrates particular extenuating circumstances to warrant granting the assessment.

Rulemaking Authority 195.027(1), 213.06(1) FS. Law Implemented 192.047, 193.114, 193.1142, 193.155, 193.461, 193.703, 194.011 FS. History—New \_\_\_\_\_.

**DEPARTMENT OF REVENUE**

**Property Tax Oversight Program**

RULE NO.:                      RULE TITLE:  
12D-16.002                      Index to Forms

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 38, No. 14, April 6, 2012 issue of the Florida Administrative Weekly.

This proposed rule was subsequently amended in the Vol. 38, No. 20, May 18, 2012 issue of the Florida Administrative Weekly. The Department is removing the new form DR-50ITS, Designation of Ownership Share of Abandoned Homestead, added by the first notice of change published in the May 18, 2012 edition of the Florida Administrative Weekly. This removal will give interested parties an opportunity to comment on the proposed provisions and form at a public hearing to be scheduled in the near future. The proposed new form DR-50ITS, incorporated by reference in new paragraph (j) of subsection (39) of Section 12D-16.002, F.A.C., will be the form to be used to designate ownership shares based on the 2012 Legislative amendment to Section 193.155, F. S., enacted in Section 5 of Chapter 2012-193, Laws of Florida, (HB 7097). This legislative amendment required the Department to provide a form designating the ownership share when a husband and wife abandon a jointly titled property.

The proposed new rule text will be available at <http://dor.myflorida.com/dor/property/legislation/rules/10ruledrafts.html>. When adopted, subsection (39) of Rule 12D-16.002, will read as follows:

(39)(a)	DR-501	Original Application for <u>Homestead and Related Ad Valorem Tax Exemptions</u> (r. <del>xx/12 12/06</del> )	<u>10/07</u>
(b)	DR-501A	Statement of Gross Income (r. <del>xx/12 6/94</del> )	<u>12/95</u>
(c)	DR-501CC	Ad Valorem Tax Exemption Application Proprietary Continuing Care Facility (r. <del>xx/12 n-9/98</del> )	<u>12/98</u>
(d)	<u>DR-501DV</u>	<u>Application for Homestead Tax Discount, Veterans Age 65 and Older with a Combat-Related Disability</u> (n. xx/12)	<u>        </u>
(e)	<u>DR-501M</u> <del>DR-501SC</del>	<u>Deployed Military Exemption Application</u> (r. 11/11) <del>Sworn Statement of Adjusted Gross Income of Household and Return</del> (12/04)	<u>        </u> (6/11) <u>12/04</u>
(f)(e)	DR-501PGP	Original Application for Assessment Reduction for Living Quarters of Parents or Grandparents (r. <del>xx/12 n-12/03</del> )	<u>        </u> 1/04
(g)	<u>DR-501RVSH</u>	<u>Certificate for Transfer of Homestead Assessment Difference</u> (r. 12/08)	<u>        </u>
(h)	<u>DR-501SC</u>	<u>Adjusted Gross Household Income Sworn Statement and Return</u> (r. xx/12)	<u>        </u>
(i)	<u>DR-501T</u>	<u>Transfer of Homestead Assessment Difference, Attachment to Original Application for Homestead Tax Exemption</u> (r. 12/08)	<u>        </u>

(40) through (61)(b) No change.

**DEPARTMENT OF CORRECTIONS**

RULE NO.:                    RULE TITLE:  
33-602.205                 Inmate Telephone Use  
                                  NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 38, No. 17, April 27, 2012 issue of the Florida Administrative Weekly. Subparagraphs (2)(a) i. through v. were renumbered to (2)(a)1. through 5.

**DEPARTMENT OF HEALTH**

**Board of Medicine**  
RULE NO.:                    RULE TITLE:  
64B8-51.006                 Rule Governing Licensure and  
                                  Inspection of Electrology Facilities  
                                  NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 38, No. 9, March 2, 2012 issue of the Florida Administrative Weekly.

These changes are being made pursuant to comments received from the Joint Administrative Procedures Committee: The changes are as follows:

- (3)(f)8. A sharps container, as defined in Chapter ~~64E-16.002, F.A.C., 64E-16~~ for disposal of used needles/probes.
- (3)(h)1. Proof of compliance with all requirements stated in Rule section 64B8-51.006, F.A.C.

(5) Transfer of Ownership or Location of the Electrology Facility.

(a) No license for an electrology facility may be transferred from the name of the original licensee to another.

(b) The department may approve the transfer of a license from one facility to another. An electrology facility license may be transferred from one location to another only upon approval by the Department which approval shall be granted upon compliance with all requirements set out below in subparagraphs 1. through 3. Only the licenses for electrology facilities which have passed the most recent inspection at the original location are eligible for transfer to another location. In order to begin practice at the new location, the electrology facility license holder must first perform all of the following procedures:

3. Obtain Pay \$100 to have the new location inspected to determine compliance with Rule 64B8-51.006, F.A.C. The electrology facility may license holder transferring the license ~~shall be permitted to perform electrolysis in the new facility; only after the application has been processed by the Council office and notification provided to the licensee,~~ prior to inspection for a period of 60 days commencing with the first day electrolysis is performed in the new facility, provided the applicant has received notification from the Electrolysis Council that the application has been processed ~~providing.~~ The required inspection must be performed within the 60 day period or electrolysis services must cease until the inspection is performed.

Section 478.55, Florida Statutes, will be added to the Law Implemented.

THE PERSON TO BE CONTACTED REGARDING THIS CHANGE IS: Allen Hall, Executive Director, Electrolysis Council, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3258

**DEPARTMENT OF FINANCIAL SERVICES****Division of Insurance Agents and Agency Services**

RULE NO.: 69B-162.011  
 RULE TITLE: Suitability and Disclosure in Annuity Contracts-Forms Required

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 37, No. 29, July 22, 2011 issue of the Florida Administrative Weekly has been withdrawn.

## Section IV Emergency Rules

**DEPARTMENT OF THE LOTTERY**

RULE NO.: 53ER12-38  
 RULE TITLE: FLORIDA LOTTO™

SUMMARY: This emergency rule sets forth the provisions for the conduct of FLORIDA LOTTO™. This emergency rule replaces Emergency Rule 53ER12-19, F.A.C.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER12-38 FLORIDA LOTTO™(1) How to Play FLORIDA LOTTO™

(a) FLORIDA LOTTO is a lottery on-line game in which players select six (6) numbers from a field of one (1) to fifty-three (53).

(b) Players may make their FLORIDA LOTTO ticket selections by marking a play slip or by telling the retailer their desired selections. There are ten (10) panels on a play slip. Each panel played will cost \$1.00 per drawing. Players may mark their desired numbers on the play slip by selecting six (6) numbers from each panel played, or may mark the "QP" box located at the bottom of each panel for the terminal to randomly select one (1) or more of the six (6) numbers. A "Void" box is also located at the bottom of each panel and should be marked by the player if an error was made in his or her selections in a panel.

(c) Players may receive one (1) ticket with either five (5), ten (10) or twenty (20) sets of six (6) numbers randomly selected by the terminal for the next FLORIDA LOTTO drawing by marking the desired purchase amount under the number 5, 10 or 20, respectively, in the "Quick Picks" box. Players may mark Quick Picks in addition to panel plays. Players must use only blue or black ink or pencil for making

selections. Play slips must be processed by a retailer in order to obtain a ticket. Retailers are authorized to manually enter numbers selected by a player.

(d) Players may play up to fifty-two (52) consecutive FLORIDA LOTTO drawings by using the "advance play" feature. To use the advance play feature, players may either mark the number of drawings desired in the Advance Play section of a play slip or tell the retailer their desired number of consecutive advance drawings. The number of consecutive advance drawings selected shall apply to each panel (A-J) played. Advance play is not available with Grouper® or with the Quick Picks box on the play slip. In the event that a planned change in the FLORIDA LOTTO game requires that the number of advance plays available for purchase be reduced to zero before implementation of the change, an advance play countdown schedule will be posted on the Lottery's website, flalottery.com.

(e) Players may elect to play "Grouper®" to receive six (6) quick pick tickets for \$5.00 consisting of one (1) ticket each of CASH 3™, PLAY 4™, FANTASY 5®, MEGA MONEY™, and FLORIDA LOTTO™ plus one (1) free ticket automatically generated by the terminal of either FANTASY 5, MEGA MONEY or FLORIDA LOTTO by telling the retailer. Tickets in Grouper play cannot be player-selected and cannot be cancelled. Free tickets will be generated in the following percentages: FANTASY 5 – 47%; MEGA MONEY – 47%; FLORIDA LOTTO – 6%.

(2) FLORIDA LOTTO Drawings.

(a) FLORIDA LOTTO drawings shall be conducted twice per week, on Wednesday and Saturday.

(b) The equipment shall be configured so that six (6) balls are drawn from one (1) set of balls numbered one (1) through fifty-three (53).

(c) Six (6) balls will be selected in the drawing. The numbers shown on the six (6) balls, after certification by the Draw Manager and the Accountant, are the official winning numbers for the drawing.

(d) The Florida Lottery shall not be responsible for incorrect circulation, publication or broadcast of the official winning numbers.

(3) FLORIDA LOTTO Prize Divisions.

(a) FLORIDA LOTTO is a pari-mutuel game. For each draw, 50 percent (50%) of net sales (gross sales less cancels and free tickets) from the sale of FLORIDA LOTTO tickets in the corresponding FLORIDA LOTTO sales period shall be allocated as the winning pool for the payment of prizes as provided below. The value of the FLORIDA LOTTO portion of a FLORIDA LOTTO with XTRA ticket awarded as a prize or given for free in a promotion shall be deducted from FLORIDA LOTTO gross sales in all reports, and the value of the XTRA portion of a FLORIDA LOTTO with XTRA ticket awarded as a prize or given for free in a promotion shall be deducted from XTRA gross sales in all reports.