

~~financial situation.~~ At redetermination the counselor, or other designated staff, will review the family's current situation, ~~using the formula,~~ and will adjust the basic subsidy amount ~~based on the child's age as indicated, by that process.~~ The continued need for the supplemental payments will also be determined at this time. A new or updated prognosis will be required to document the continued need for service and support. If the service is no longer required, the supplemental payment must be discontinued. The adoption assistance agreement must be renegotiated with the adoptive parent at each scheduled change to the subsidy payment or services. There must always be a current agreement in the case record or subsidy file.

~~(10)(11)~~ DCF-FSP Form 5079 (Adoption Assistance Agreement Between the Department of Children and Families and Adoptive Parents Regarding Subsidy Payments and Services) Jul 90, which are incorporated by reference, are available for use when a special needs child is placed in a subsidized adoptive placement.

~~(11)(12)~~ Cases negotiated prior to the effective date of this rule amendment shall be governed by the rules in place at the time of negotiation of the subsidy agreement.

~~(12)(13)~~ The continuation of adoption subsidy payments and services, including Medicaid, is contingent upon the adoption of state and federal funds for these purposes.

(13) Any child who has been determined eligible for adoption subsidy and for whom adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated, or because the child's adoptive parents have died, will retain their original eligibility for subsidy regardless of the financial or other circumstances of the terminated or decreased adoptive parents.

Specific Authority 409.166(7), 409.026(8) FS. Law Implemented 409.166 FS. History—New 2-14-84, Amended.

FLORIDA HOUSING FINANCE CORPORATION

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Home Investment Partnership Program (HOME) Home Construction Loan Program	67-47
RULE TITLES:	RULE NOS.:
Definitions	67-47.010
Notice of Funds Availability	67-47.020
Match Contribution Requirement	67-47.030
Reallocation for Disaster Areas	67-47.035
Minimum Set-aside of Funds for Community Development Organizations (CHDO's)	67-47.040
Income Targeting: Home Ownership	67-47.050
Eligible Activities	67-47.060
Eligible Applicant's Responsibilities	67-47.070
Eligible and Ineligible Development Costs	67-47.080
General Project Restrictions:	
Affordability Requirements	67-47.090

Application and Selection Procedures for Home Ownership Developments	67-47.100
Administrative Procedures	67-47.110
Terms and Conditions of HOME Second Mortgage Loans made to Eligible Home Buyers or Home Owners	67-47.130
Credit Underwriting Procedures and Origination	67-47.140
Disbursement of Funds	67-47.150
Fees	67-47.160
Compliance Procedures	67-47.170

PURPOSE AND EFFECT: The purpose of Rule Chapter 67-47, Florida Administrative Code (F.A.C.), is to establish the procedures by which the Florida Housing Finance Corporation shall administer the application process, to allow (HOME) Home Ownership funds to be used for construction activities of single family housing for low income home buyers.

SUBJECT AREA TO BE ADDRESSED: The Rule Development workshop will be held to receive comments and suggestions from interested persons relative to the development of the 1999 application and program requirements and for the development of a lease purchase option for the HOME Home Ownership Program as specified in Rule Chapter 67-47, F.A.C.

SPECIFIC AUTHORITY: 420.507(12), (14) FS.

LAW IMPLEMENTED: 420.5089(2) FS.

RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., April 20, 1999

PLACE: Florida Housing Finance Corporation, Sixth Floor, Seltzer Room, 227 North Bronough Street, Tallahassee, FL 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND TO OBTAIN A COPY OF THE PRELIMINARY DRAFT AT NO COST IS: Ms. Robin Grantham, HOME Single Family Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329

Any person requiring special accommodation at this workshop because of a disability or physical impairment should contact Linda Hawthorne at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay system which can be reached at 1(800)955-8771 (TDD).

**Section II
Proposed Rules**

DEPARTMENT OF INSURANCE

RULE TITLES:	RULE NOS.:
Requirement of Net Worth of Premium Finance Companies	4-196.003
Filing Surety Bond in Lieu of Net Worth	4-196.005
Annual Reports	4-196.007

Forms Incorporated by Reference 4-196.015
 Premium Financing of Products Not

Regulated by the Insurance Code and

Related Unfair Trade Practices Prohibited 4-196.020

PURPOSE AND EFFECT: The 1997 Florida Legislature adopted amendments to Part XV of Chapter 627 relating to Premium Finance Companies in Chapter 97-204, Laws of Florida. As a result of these amendments it is necessary to revise existing rules to comply with statutory revisions and make changes to implement new provisions related to refunds of return premiums.

SUMMARY: The rules to be revised address net worth requirements, filing of a surety bond, updating of the annual report form, and implementing prohibitions regarding the financing of products not regulated by the insurance code.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Regulatory Cost has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 624.308, 627.848 FS.

LAW IMPLEMENTED: 626.611, 627.828, 627.836, 627.8405, 627.848 FS.

IF REQUESTED WITHIN 21 DAYS OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., April 29, 1999

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Glenn Lewis, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0329

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White at (850)922-3110, ext. 4214.

THE FULL TEXT OF THE PROPOSED RULES IS:

4-196.003 Requirement of Net Worth of Premium Finance Companies.

Specific Authority 624.308 FS. Law Implemented 627.828 FS. History--New 10-29-73, Repromulgated 12-24-74, Formerly 4-18.03, 4-18.003, Amended 7-27-78, Repealed _____.

4-196.005 Filing Surety Bond in Lieu of Net Worth.

(1) A surety bond in the amount of \$35,000.00 may be filed with the department by premium finance companies in lieu of having a net worth of \$35,000.00 conjunction with a \$10,000 minimum net worth; and

(2) Such surety bond must be written by an insurer authorized to do business in this state; and

(3) Such surety bond shall be approved by the department and shall not be canceled without a thirty-day written notice to the department.

Specific Authority 624.308 FS. Law Implemented 627.828 FS. History--New 10-20-73, Repromulgated 12-24-74, Formerly 4-18.05, 4-18.005, Amended _____.

4-196.007 Annual Reports.

~~(1) Except as noted in subsections (2) and (3) below, annual reports which are due on or before March 1 of each year, as required by Section 627.836, F.S., must include audited financial statements containing the opinion of a Certified Public Accountant or a licensed Public Accountant as outlined in subsection 4-196.003(1) of these rules. Annual Reports, which are due on or before March 1 of each year must be attested by two officers of the company and demonstrate compliance as outlined in subsections 4-196.001(1),(2) or (3). The audited statements must bear a fiscal year end date falling within the current calendar year being reported.~~

~~(2) Premium finance companies filing a surety bond with the department will not be required to file audited financial statements but need file only the regular annual report together with evidence that the bond is still in force.~~

~~(3) Premium finance companies filing other acceptable collateral with the Department are not required to file audited financial statements but need file only the regular annual report. To by two officers attested of the company.~~

(4)(1) The annual report shall be filed on or before March 1 of each year. The due date is the date by which the report is to be RECEIVED in the Department, NOT THE POSTMARK DATE. ~~If an audited financial statement is required, it must accompany the annual report and be received on or before the March 1 due date to avoid late filing penalties.~~

(2) The annual report shall be filed on form DI4-107(11/97), Annual Report, which is incorporated by reference in rule 4-196.015. Each page of the form shall be completed and prepared according to the instructions. An incomplete form shall be returned and considered not filed by the Department. Failure to file a complete annual report by the due date may result in administrative penalties or revocation of the premium finance license.

Specific Authority 624.308 FS. Law Implemented 627.836 FS. History--New 10-20-73, Repromulgated 12-24-74, Formerly 4-18.07, 4-18.007, Amended 7-27-95, _____.

4-196.015 Forms Incorporated by Reference.

The following forms are incorporated into this rule chapter by reference to implement the provisions of Chapter 627, Part XV, F.S.:

Title	Form Number
(2) Annual Report	DI4-107 (11/97) (6/95)

Specific Authority 624.308 FS. Law Implemented 624.321(1)(a), 627.828, 627.829, 627.836, 627.845, 628.4615 FS. History—New 5-28-90, Formerly 4-18.015, Amended 7-27-95, _____.

4-196.020 Premium Financing of Products Not Regulated by the Insurance Code and Related Unfair Trade Practices Prohibited.

(1) The term "automobile club" as used in this rule shall have the same meaning as in section 627.8405(1), Florida Statutes.

(2) The term "procuring" as used in section 624.124, Florida Statutes, does not include premium financing.

(3) Financing the cost of an automobile club membership within a premium finance agreement, or collecting or remitting of dues, assessments, fees or other periodic payments is prohibited by section 627.8405, Florida Statutes, even if insurance coverage is a benefit of the membership.

(4) Financing of any benefit, including any insurance coverage, provided in a motor club membership, or collecting or remitting of dues, assessments, fees or other periodic payments is prohibited.

(5) Financing the cost of an accidental death and dismemberment policy or collecting or remitting of dues, assessments, fees or other periodic payments sold in combination with personal injury protection and property damage only policies is prohibited.

~~(6)(5)~~ Section 627.8405(4), Florida Statutes, prohibits premium financing of any product not regulated under the Insurance Code including mixed products which contain a part that is not regulated under the Insurance Code.

Specific Authority 624.308 FS. Law Implemented 624.124, 626.753, 626.794, 626.838, 626.9541, 627.832, 627.837, 627.8405 FS. History—New 12-27-94, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Al Willis, Chief, Bureau of Specialty Insurers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kevin McCarty, Assistant Director, Division of Insurer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 15, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 13, 1998

DEPARTMENT OF LAW ENFORCEMENT

Division of Local Law Enforcement Assistance

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Implied Consent Program	11D-8
RULE TITLES:	RULE NOS.:
Definitions	11D-8.002
Approval of Alcohol Reference Solutions and Sources	11D-8.0035

PURPOSE AND EFFECT: To eliminate vague and ambiguous language by defining the term "source approved by the Department" as the term is used in Sections 11D-8.0035 and 11D-8.006. To provide procedures and standards for the approval of alcohol reference solutions, as well as the sources of the alcohol reference solutions, to be used by law enforcement agencies in monthly testing of approved breath test instruments.

SUMMARY: Proposed language in Rule 11D-8.0035, F.A.C., provides standards to be met by sources seeking approval from the Florida Department of Law Enforcement to provide alcohol reference solution to agencies in monthly testing of approved breath test instruments. The proposed language provides for pre- and post-approval analysis of alcohol reference solution provided by a source approved by the Florida Department of Law Enforcement. The proposed language provides for analysis of the alcohol reference solution by gas chromatography to determine the amount of ethanol in the solution, and the Department will only approve those lots whose analysis confirms that the ethanol concentration is within 3% of the target ethanol concentration. The proposed language provides for Department approval to expire one (1) year from the date of manufacture for a batch of alcohol reference solution.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 working days of this notice.

SPECIFIC AUTHORITY: 316.1932(1)(f)1., 322.63(3)(a), 327.352(1)(d) FS.

LAW IMPLEMENTED: 316.1932(1)(b)2., 316.1934(3), 322.63(3)(b), 327.354(3) FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THIS NOTICE A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., April 30, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Quad C, Third Floor Conference Room, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900, (voice) or (850)656-9597, (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Richard D. Courtemanche, Jr., Assistant General Counsel, Office of General Counsel, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11D-8.002 Definitions.

(1) through (26) No changes

(27) Source Approved by the Department – Shall mean any vendor or manufacturer of Alcohol Reference Solution or Alcohol Stock Solution selected by the Department to provide or distribute Alcohol Reference Solution or Alcohol Stock Solution to one or more agencies.

Specific Authority 316.1932(1)(f)1., 322.63(3)(a), 327.352(1)(d) FS. Law Implemented 316.1932(1)(b)2., 316.1933(2)(b), 316.1934(3), 322.63(3)(b), 327.353(2), 327.354(3) FS. History–New 10-31-93, Amended 1-1-97,

11D-8.0035 Approval of Alcohol Reference Solution and Sources.

(1) The Department will approve sources of alcohol reference solution for use by agencies in the State of Florida. A source approved by the Department may be a single entity that manufactures and distributes alcohol reference solution, or may be two entities, one which manufactures the alcohol reference solution and one which distributes the alcohol reference solution. A source approved by the Department must meet the following requirements:

(a) The source must prepare alcohol reference solution using only distilled or deionized water:

(b) The source must use reagent grade or U.S.P. Punctilious grade ethanol in the preparation of the alcohol reference solution:

(c) The source must be capable of producing a minimum batch volume of 800 bottles, each containing at least 500 milliliters, to produce the following vapor alcohol concentrations: 0.050 g/210L, 0.080 g/210L, and 0.200 g/210L;

(d) The source must have performed and documented a shelf-life study justifying an expiration date of at least 365 days from the date of manufacture.

(2) The Department shall approve each lot of alcohol reference solution provided by a source approved by the Department prior to distribution of the alcohol reference solution for use in agency or Department inspections. The source approved by the Department will only supply alcohol reference solution previously approved by the Department for use in agency or Department inspections.

(a) Prior to Department approval of a lot of alcohol reference solution, a source approved by the Department shall provide to the Department a minimum of ten (10) sample bottles selected from each lot.

(b) The Department shall determine the ethanol concentration in a minimum of ten (10) sample bottles of alcohol reference solution using gas chromatography or other scientifically accepted method. Three tests will be performed on each sample bottle of alcohol reference solution, yielding a minimum of 30 tests results for each lot. All test results shall fall within $\pm 3\%$ of the target ethanol concentration.

(3) Upon approval of a lot of alcohol reference solution by the Department, the Department will notify the source approved by the Department that a lot may be distributed to agencies for use in agency inspections. The Department will prepare a Certificate of Assurance, FDLE/ATP Form 32 – <Date>, which is approved by the Department and is incorporated by reference. The Certificate of Assurance contains a summary of the laboratory analysis performed on the lot of alcohol reference solution, and shall be made available upon request.

(4) The Department shall perform a post-approval laboratory analysis of alcohol reference solution previously approved by the Department for use by the agencies.

(a) The Department shall select a minimum of three (3) agencies to provide bottles of alcohol reference solution from a lot previously approved by the Department.

(b) The sample bottles received and the data obtained from the post-approval analysis must be consistent with the procedure set forth in subsection (2)(b).

(c) Upon a determination that a lot of alcohol reference solution previously approved by the Department has failed to meet the requirements set forth in subsection (2)(b), the Department shall investigate the circumstances leading to the invalid test results. Upon a determination by the Department that a lot of alcohol reference solution fails to meet the requirements in subsection (2)(b), the Department shall notify the source approved by the Department, and all agencies utilizing said alcohol reference solution, and the lot of alcohol reference solution shall be removed from service.

(5) Alcohol reference solution approved by the Department shall only be used in agency or Department inspections within one (1) year of the date of manufacture.

Specific Authority 316.1932(1)(f)1., 322.63(3)(a), 327.352(1)(d) FS. Law Implemented 316.1932(1)(b)2., 316.1934(3), 322.63(3)(b), 327.354(3) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Richard D. Courtemanche, Jr., Assistant General Counsel,
Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Michael A. Ramage, General
Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: On March 23, 1999, the Governor and Cabinet
approved the Department's request to publish this Notice of
Proposed Rulemaking

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 11D-8, F.A.C., were noticed for a Rule Development workshop in the Florida Administrative Weekly on December 4, 1998

DEPARTMENT OF REVENUE

RULE TITLE: Performance of Audit Services
 RULE NO.: 12-25.009

PURPOSE AND EFFECT: The proposed repeal of subsection (5) of Rule 12-25.009, F.A.C., is necessary to conform the Department's rules to the applicable statute (Section 213.28, F.S.).

The effect of deleting this rule provision is to eliminate the Department's authority to require contract auditors to follow any written or verbal directions it issues concerning the contract audit program, unless such directions are specifically authorized by statute or rule.

SUMMARY: Deletes a rule provision requiring that contract auditors comply with any written or verbal directions issued by the Department.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since the deletion of this rule provision does not implement any new administrative program or procedure, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 213.06(1) FS.

LAW IMPLEMENTED: 212.10, 213.28 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., April 27, 1999

PLACE: Conference Room, Room 435, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Post Office Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4830.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding before the Technical Assistance and Dispute Resolution Office should call (850)488-8026 (voice) or 1(800)367-8331 (TDD), at least five working days before such proceeding.

THE FULL TEXT OF THE PROPOSED RULE IS:

12-25.009 Performance of Audit Services.

Except as otherwise provided in the contract executed by the Department, contract auditors shall:

(1) through (4) No change.

~~(5) In addition, the contract auditor must comply with any other written or verbal directions stipulated by the Department.~~

Specific Authority 213.06(1) FS. Law Implemented 212.10, 213.28 FS., ss. 6, 17, Ch 93-233, L.O.F. History--New 5-11-92, Amended 3-20-94, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4830

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule amendment to Rule 12-25.009, F.A.C., was noticed for a Rule Development Workshop in the Florida Administrative Weekly on December 24, 1998 (Vol. 24, No. 52, p. 6911). The workshop was held on January 27, 1999. No one appeared at the workshop to testify, and no one submitted written comments

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLE: Cleaning Services
 RULE NO.: 12A-1.0091

PURPOSE AND EFFECT: The proposed amendments to Rule 12A-1.0091, F.A.C., delete rule language that exceeds legislative authority. The effect of these changes will be to allow greater clarity in the administration of this tax.

SUMMARY: The proposed amendments remove language from subsection (1) and delete subsection (5) of the rule regarding the enumerated services of carpet cleaning on a customer's premises and furniture cleaning on a customer's premises, which are not considered to be subject to the tax on cleaning services. The amendments also remove an example from current subsection (6) of the rule regarding the purchased services of temporary employees. A technical change is made to remove the unnecessary effective date of the tax imposed on services from the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since the removal of language within this rule does not implement any new administrative program or procedure, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS.
LAW IMPLEMENTED: 212.05(1)(b),(j), 212.07(2), 212.085 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., April 27, 1999

PLACE: Conference Room, Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jeffery L. Soff, Tax Law Specialist, Technical Assistance and Dispute Resolution, Post Office Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4719

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding before the Technical Assistance and Dispute Resolution Office should call (850)488-8026 (voice) or 1(800)367-8331 (TDD), at least five working days before such proceeding.

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-1.0091 Cleaning Services.

(1)(a) ~~Nonresidential~~ ~~On or after September 1, 1992,~~ ~~nonresidential~~ cleaning services are subject to tax. Nonresidential cleaning services are those services (not involving repair) rendered to maintain the clean and sanitary appearance and operating condition of a nonresidential building and include such services as, ~~but are not limited to, the following services which are subject to the State's sales and use tax:~~

1. Acoustical tile cleaning services;
2. Building cleaning services, interior;
- ~~3. Carpet cleaning on customer's premises;~~
- 3.4. Chimney cleaning services;
- ~~4.5.~~ Custodians of schools on a contract or fee basis;
- 5.6. Deodorant servicing of restrooms;
- 6.7. Disinfecting services;
- 7.8. Floor waxing services;
- ~~9. Furniture and upholstery cleaning on customer's premises;~~
- 8.10. Housekeeping (cleaning services) on a contract or fee basis;
- 9.11. Janitorial services on a contract or fee basis;
- 10.12. Lighting maintenance services (bulb replacement and cleaning);
- 11.13. Maid services on a contract or fee basis;
- 12.14. Maintenance of buildings (except repairs);

- 13.15. Office cleaning services;
- 14.16. Restroom cleaning services;
- 15.17. Service station cleaning and degreasing services;
- 16.18. Venetian blind cleaning;
- 17.19. Washroom sanitation service; and
- 18.20. Window cleaning (interior or exterior).

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

~~(5)(a) The charge for carpet cleaning on the customer's premises for nonresidential buildings is considered to be a building cleaning service and is taxable.~~

~~(b) The charge for cleaning furniture on the customer's premises in nonresidential buildings is considered to be a building cleaning service and is taxable.~~

~~(c) Example: A restaurant has a fire in its kitchen which causes water and smoke damage to the customer seating areas. The restaurant hires a contractor to repair the kitchen ceiling, an appliance dealer to repair the kitchen equipment, and a fire restoration company to clean the carpeting, walls, ceiling, and furniture in the customer areas. The restoration company performs all of its cleaning services on the restaurant premises and does not make physical repairs to the building or kitchen equipment. The entire charge made by the fire restoration company is subject to tax.~~

(6) renumbered (5) No change.

(a) through (d) No change.

~~(e) If a transaction involves both the sale or use of a taxable service and the sale or use of a service that is not subject to tax, the charges shall be separately identified and stated with respect to the taxable and nontaxable portions of the transaction. The tax shall apply to the transaction to the extent that the consideration paid in connection with the transaction is payment for the sale or use of taxable services. Failure to separately state the charges shall create a presumption that the entire transaction is a taxable service.~~

~~2. Example: A motel calls a temporary help agency and requests the services of a laborer for three days to help move furniture, perform some groundskeeping, and wash windows. At the end of the three days the temporary help agency must charge sales tax to the motel for the labor associated with the window washing based on the laborer's time sheets or other documentation as certified by the motel. If the amount of labor applicable to window washing cannot be distinguished from the labor to move furniture or for groundskeeping, then the entire charge for the laborer's services will be subject to tax.~~

(7) renumbered (6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(b), ~~(j)(4)~~, 212.07(2), 212.085 FS. History—New 5-13-93, Amended 3-20-96, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jeffery L. Soff, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4830

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule amendments to Rule 12A-1.0091, F.A.C., were noticed for a Rule Development Workshop in the Florida Administrative Weekly on November 13, 1998 (Vol. 24, No. 46, pp. 6208-6209). The workshop was held on December 1, 1998. No one appeared at the workshop to provide commentary, and no one submitted written comments prior to, or subsequent to, the workshop.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLE: Vending Machines

RULE NO.: 12A-1.044

PURPOSE AND EFFECT: The proposed amendment to subsection (12) of Rule 12A-1.044, F.A.C., deletes rule language that exceeds legislative authority. The effect of deleting this rule provision is to remove a section addressing the taxability of advertising book matches sold through vending machines, which has been identified as being beyond the Department's specific statutory authority.

SUMMARY: Deletes a rule provision dealing with the taxability of advertising book matches sold through vending machines.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since the deletion of this rule provision does not implement any new administrative program or procedure, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 212.0515, 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.02(10)(g), (14), (15), (16), (19), (24), 212.031, 212.05(1)(i), 212.0515, 212.054, 212.055, 212.07(1), (2), 212.08(1), (7), (8), 212.11(1), 212.12(2), (3), (4), (9), 212.18(2), (3) FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., April 27, 1999
PLACE: Conference Room, Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robert D. Heyde, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4714

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding before the Technical Assistance and Dispute Resolution Office should call (850)488-8026 (voice) or 1(800)367-8331 (TDD), at least five working days before such proceeding.

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-1.044 Vending Machines.

(1) through (11) No change.

~~(12) Advertising book matches which are dispensed with cigarettes through a cigarette machine are taxable on their purchase by vending machine operators. The matches are not deemed to be sold but are considered given away for advertising purposes. Matches which contain advertising and which are given away in over the counter sales are taxable on their purchase. In either event, matches which contain no advertising are deemed to be sold and are exempt upon their purchase.~~

Specific Authority 212.0515, 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(g),(14),(15),(16),(19),(24), 212.031, 212.05(1)(i), 212.0515, 212.054, 212.055, 212.07(1),(2), 212.08(1),(7),(8), 212.11(1), 212.12(2),(3),(4),(9), 212.18(2),(3) FS. History-Revised 10-7-68, 6-16-72, 1-10-78, Amended 7-20-82, Formerly 12A-1.44, Amended 12-13-88, 5-11-92, 3-17-93, 12-13-94, 3-20-96.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert D. Heyde, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4714

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule amendment to Rule 12A-1.044, F.A.C., was noticed for a Rule Development Workshop in the Florida Administrative Weekly on December 24, 1998 (Vol. 24, No. 52, p. 6911). The workshop was held on January 27, 1999. No one appeared at the workshop to testify, and no one submitted written comments

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES: RULE NOS.:

Rentals, Leases, and Licenses to Use

Transient Accommodations 12A-1.061
 Public Use Forms 12A-1.097

PURPOSE AND EFFECT: The purpose and effect of the proposed amendments to Rules 12A-1.061 and 12A-1.097, F.A.C., is to include the changes provided in Section 2, Chapter 98-140, Laws of Florida, that amend the requirements imposed on owners of tax exempt trailer camps, mobile home parks, and recreational vehicle parks and to certify the revisions to Form DR-72-2 incorporating these changes.

SUMMARY: The proposed amendments to Rule 12A-1.061, F.A.C., provide that at the end of each accounting year, owners of exempt camps or parks are required to use a consecutive three month period with at least one month within the accounting year to determine whether their camp or park continues to qualify for exemption. If the owner determines that the camp or park no longer qualifies for exemption from the taxes imposed on transient accommodations, the owner must notify the Department by the 20th day of the first month of the next succeeding accounting year using Form DR-72-2, Declaration of Taxable Status-Trailer Camps, Mobile Home Parks, and Recreational Vehicle Parks. The proposed amendments to Rule 12A-1.097, F.A.C., incorporate the revisions to Form DR-72-2 necessary to incorporate the changes provided in Section 2, Chapter 98-140, Laws of Florida.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since the amendments to these rule provisions do not implement any new administrative program or procedure, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS.
 LAW IMPLEMENTED: 92.525(1)(b), 212.02(2), (10)(a)-(g), (16), 212.03(1), (2), (3), (4), (5), (7), 212.031, 212.04(4), 212.08(6), (7)(i), (m), (o), 212.11(1), (2), 212.12(7), (9), (12), 212.13(2), 212.17(6), 212.18(2), (3), 213.37, 213.756 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., April 27, 1999

PLACE: Room B12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding before the Technical Assistance and Dispute Resolution Office should call (850)488-8026 (voice) or 1(800)367-8331 (TDD), at least five working days before such proceeding.

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-1.061 Rentals, Leases, and Licenses to Use Transient Accommodations.

(1) through (8) No change.

(9) MOBILE HOMES, RECREATIONAL VEHICLES, AND PARKS.

(a) through (c) No change.

(d)1. No change.

2. Once the owner or owner's representative has declared to the Department that the rental charges for transient accommodations at the camp or park are exempt, the owner or owner's representative is required to make a redetermination of the taxable status of the camp or park at the end of the owner's each accounting year. To make this determination, the owner must use a consecutive three month period with at least one month in the accounting year. In the event that charges for transient accommodations at an exempt camp or park no longer qualify for exemption, the owner or owner's representative must notify the Department no later than the 20th day of the first month of the owner's next succeeding accounting year that the rental charges for transient accommodations at the camp or park have become taxable. ~~The results of the redetermination will be applied to the rental charges for transient accommodations at that the camp or park will become taxable on the first day of the owner's next succeeding during the following~~ accounting year.

3. through 5. No change.

(10) through (19) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 92.525(1)(b), 212.02(2), (10)(a)-(g),(16), 212.03(1),(2),(3),(4),(5),(7), 212.031, 212.04(4), 212.08(6),(7)(i),(m),(o), 212.11(1),(2), 212.12(7),(9),(12), 212.13(2), 212.18(2),(3), 213.37, 213.756 FS. History-Revised 10-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, Amended 7-19-72, 4-19-74, 12-11-74, 5-27-75, 10-18-78, 4-11-80, 7-20-82, 1-29-83, 6-11-85, Formerly 12A-1.61, Amended 10-16-89, 3-17-94, 1-2-95, 3-20-96, 11-30-97.

12A-1.097 Public Use Forms.

(1) No change.

Form Number	Title	Effective Date
(2) through (17)	No change.	
(18) DR-72-2	Declaration of Taxable Status-Trailer Camps, Mobile Home Parks, and Recreational Vehicle Parks (r. <u>10/98</u> 09/97)	<u>11/97</u>
(19) through (31)	No change.	

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.17(6), 212.18(2) FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Melton H. McKown, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule amendment to Rules 12A-1.061 and 12A-1.097, F.A.C., was noticed for a Rule Development Workshop in the Florida Administrative Weekly on November 13, 1998 (Vol. 24, No. 46, pp. 6209-6211). The workshop was held on December 1, 1998. No one appeared at the workshop to testify. Timely submitted written comments were received by the Department; however, no substantive changes to the proposed amendments were made by the Department.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLE: Sales in Interstate and Foreign Commerce; Sales to Nonresident Dealers; Sales to Diplomats

RULE NO.: 12A-1.064

PURPOSE AND EFFECT: The purpose of the proposed amendment is to remove the provisions that exceed statutory authority regarding the partial exemption from sales and use tax for certain items purchased for use by motor vehicle common carriers.

SUMMARY: The proposed amendments delete the provision which specifies that purchases of fire extinguishers, hand trucks, step ladders, tarpaulins, furniture pads and burlaps are subject to the proration of sales tax, when such items are purchased for use by motor vehicle carriers engaged in interstate or foreign commerce.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since the deletion of this rule provision does not implement any new administrative program or procedure, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.02(10)(g), 212.05(1), 212.0598, 212.06(2), (5), 212.08(4)(a), (8), (9), 212.12(8), 212.13(1), 212.16, 212.21(3) FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., April 27, 1999

PLACE: Conference Room, Room B-12, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Linda W. Bridges, Tax Law Specialist, Sales and Use Tax Section II, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone number (850)922-9412

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding before the Technical Assistance and Dispute Resolution Office should call (850)488-8026 (voice) or 1(800)367-8331 (TDD), at least five working days before such proceeding.

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-1.064 Sales in Interstate and Foreign Commerce; Sales to Nonresident Dealers; Sales to Diplomats.

(1) through (3) No change.

(4) Motor Vehicles.

(a) through (e) No change.

~~(f) Fire extinguishers, hand trucks, step ladders, tarpaulins, furniture pads and burlaps which are used and carried as standard equipment by vehicles which are licensed by the Interstate Commerce Commission to transport persons or property in interstate or foreign commerce are taxable, subject to proration.~~

(g) renumbered (f) No change.

(5) through (13) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(g), 212.05(1), 212.0598, 212.06(2),(5), 212.08(4)(a),(8),(9), 212.12(8), 212.13(1), 212.16, 212.21(3) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 12-11-74, 5-23-77, 9-26-77, 10-18-78, 3-30-79, 4-10-79, 3-27-80, 7-20-82, 10-13-83, 8-24-84, Formerly 12A-1.64, Amended 1-2-89, 7-30-91, 3-20-96, 11-30-97,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Linda W. Bridges, Tax Law Specialist, Sales and Use Tax Section II, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9412

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mark Zych, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)488-2576

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule amendment to Rule 12A-1.064, F.A.C., was noticed for a Rule Development Workshop in the Florida Administrative Weekly on December 24, 1998 (Vol. 24, No. 52, pp. 6916-6917). The workshop was held on January 27, 1999. No one appeared at the workshop to testify, and no one submitted written comments.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLE:

RULE NO.:

Industrial Machinery and Equipment

for Use in a New or Expanding Business 12A-1.096

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to clarify those passages that have been determined in the rule review process as exceeding statutory authority. The effect of these changes will be to allow machinery and equipment that only have a partial or limited use in the production process to qualify for the exemption, provided that such machinery and equipment are an integral part of the production process.

SUMMARY: The proposed amendments remove the criterion which provided that machinery and equipment must be used more than 50 percent of the time in the manufacturing process in order to qualify for exemption; and provide that if the machinery and equipment is integral to the production process, the machinery and equipment will qualify for the exemption.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since the removal or amendment of language within this rule does not implement any new administrative program or procedure, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 212.08(5)(b)4., 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.02(4), (14), (21), 212.05, 212.06, 212.08(5)(b), 212.13(2), 215.26(2) FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., April 27, 1999

PLACE: Conference Room, Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jeffery L. Soff, Tax Law Specialist, Technical Assistance and Dispute Resolution, Post Office Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4719.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT. Persons needing an accommodation to participate in any proceeding before the Technical Assistance and Dispute Resolution Office should call (850)488-8026 (voice) or 1(800)367-8331 (TDD), at least five working days before such proceeding.

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-1.096 Industrial Machinery and Equipment for Use in a New or Expanding Business.

(1) through (7) No change.

(8) Types of industrial machinery and equipment that ~~which~~ will or will not qualify for the exemption.

(a) through (c) No change.

(d) Preproduction, random, or postproduction quality control equipment shall qualify as industrial machinery and equipment, if it is an integral part of the used more than 50 percent in the manufacturing or production process.

(e) Industrial machinery and equipment which is an integral part of used in the production process, as well as in postproduction, such as a fork-lift, ~~shall be evaluated upon the percentage of use in the manufacturing or production process compared to the total use by the business. If used more than 50 percent in the manufacturing or production process, the industrial machinery and equipment will qualify for the exemption.~~

(f) The materials used in the construction of a railroad spur that which is on the property of a new or expanding business and belongs to such business for the ~~exclusive~~ purpose of transporting raw materials shall be exempt. ~~If the same railroad spur is also used to transport the finished product, the tax will be applied to the materials used in the construction of the railroad spur based upon the percentage of taxable versus exempt use. If a different railroad spur is used solely for the purpose of transporting the finished product, tax will apply be applied to the total cost of the materials used in the construction of that railroad spur.~~

(g) through (h) No change.

(i) ~~+~~ Machinery and equipment used ~~more than 50 percent~~ to remove waste materials away from industrial machinery and equipment ~~essential to the "production process" as defined in subsection (1)(e), above, where the removal is required to maintain the operation of the production process. machinery and equipment will also qualify for exemption. For example, equipment used to remove wood chips and sawdust from around a qualified industrial wood lathe will qualify for exemption.~~

~~2. Example. Equipment used more than 50 percent to remove wood chips and sawdust from around a qualified industrial wood lathe will qualify for exemption.~~

(j) through (k) No change.

(l) Computers used ~~more than 50 percent~~ to direct and control the functions of exempt industrial machinery and equipment will qualify for exemption, even though such computers may also have non-production related applications or uses.

(m) Machines used ~~more than 50 percent~~ to control exempt industrial machinery and equipment through the reading or sensing of a tape or some other similar means will qualify for exemption.

(n) No change.

(9) through (10) No change.

Specific Authority 212.08(5)(b)4., 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), ~~(14), (21), (45), (22)~~, 212.05, 212.06, 212.08(5)(b), 212.13(2), 215.26(2) FS. History--New 5-11-92, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jeffery L. Soff, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4830

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule amendments to Rule 12A-1.096, F.A.C., were noticed for a Rule Development Workshop in the Florida Administrative Weekly on December 24, 1998 (Vol. 24, No. 52, pp. 6917-6918). The workshop was held on January 27, 1999. No oral comments were received at the workshop requesting changes to the amendments as presented. Further, no written comments regarding the amendments were received prior to the workshop, at the workshop, or subsequent to the workshop.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLE:

RULE NO.:

Itinerant Merchants, Flea Market Vendors and Other Retailers Without Permanent Places of Business

12A-1.098

PURPOSE AND EFFECT: The proposed repeal of Rule 12A-1.098, F.A.C., is necessary to conform the Department's rules to the applicable statute. The effect of deleting this rule provision is to remove an entire rule section, dealing with Itinerant Merchants, Flea Market Vendors and Other Retailers Without Permanent Places of Business, which has been identified as being beyond the Department's specific statutory authority.

SUMMARY: Deletes a rule provision dealing with Itinerant Merchants, Flea Market Vendors and Other Retailers Without Permanent Places of Business.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since the deletion of this rule provision does not implement any new administrative program or procedure, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.02(2), (5), (8), (10), (12), (13), (14), (15), (16), (19), 212.031, 212.05, 212.06, 212.07, 212.11, 212.12, 212.13, 212.15, 212.18(2), (3), 212.21(2), 213.35 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., April 27, 1999

PLACE: Room B-12, Conference Room, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robert D. Heyde, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)488-6386

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding before the Technical Assistance and Dispute Resolution Office should call (850)488-8026 (voice) or 1(800)367-8331 (TDD), at least five working days before such proceeding.

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-1.098 Itinerant Merchants, Flea Market Vendors and Other Retailers Without Permanent Places of Business.

~~(1) All itinerant merchants, flea market vendors and other retailers without permanent places of business are exercising the same taxable privilege as other merchants when selling at retail in this state. For the exercise of this privilege, a tax is levied on each taxable transaction and shall be due and payable at the moment of sale. All local option and discretionary taxes applicable to these transactions are also due and payable at the moment of sale.~~

~~(2)(a) For the purpose of this rule, an itinerant merchant is any person, as defined in s. 212.02(17), F.S., who solicits, engages in, transacts or offers for sale any new or used merchandise either in one location or while traveling from place to place in this state. An itinerant merchant is further defined as any person who does not intend to become or who does not become a permanent merchant at any one location and who for the purpose of transacting such business, rents, hires, leases, occupies or uses any building, structure, lot, tract, motor vehicle, sample case, display case, or any portion~~

thereof, for the exhibition and sale of goods, wares or merchandise. Flea market vendors are included within this definition. However, an itinerant merchant does not mean any person who occasionally sells tangible personal property from his place of residence, if the person does not hold himself out as engaged in business and if the person does not conduct more than two sales events per year.

(b) A flea market operator, manager, lessor or owner, means any person or persons who provides space(s) to flea market vendors.

(3) A flea market operator, manager, lessor or owner shall be required to do the following:

(a) Register with the Department of Revenue. Only one tax number is required for each flea market business location. The flea market operator, manager, lessor or owner shall remit the tax collected on the space rentals and the tax collected from unregistered flea market vendors under this number on a monthly basis, unless otherwise notified.

(b) Collect tax on all space rentals from flea market vendors and remit same to the department. The amount of tax shall be separately stated from the rental charge and must be shown as Florida tax on any rental agreement, invoice or other tangible evidence which authorizes the use of the rental space.

(c)1. Obtain from each unregistered flea market vendor a signed statement declaring that the unregistered flea market vendor agrees to collect the applicable tax on his sales and remit same to the flea market operator, manager, lessor or owner at the close of each business day. The statement shall include both the permanent business address, if applicable, and the residence address of the flea market vendor. Records of taxes collected and remitted shall be retained for the period specified in s. 213.35, F.S., as created by Section 6, Chapter 88-119, Laws of Florida. The flea market operator, manager, lessor or owner is not responsible for the failure of the flea market vendor to properly collect, remit and account for the sales tax.

2. Provide each unregistered flea market vendor with a sign no smaller than 8" x 10" with lettering at least 1" high, which must be displayed in a conspicuous place at the stall or other place of sale by the vendor, and which reads as follows:

"Name of vendor" is duly authorized to collect Florida sales tax for remittance by the flea market operator to the Department of Revenue.

3. Furnish unregistered flea market vendors with tax envelopes so that the unregistered vendor can record the daily sales transactions and remit the taxes collected and due to the flea market operator, manager, lessor or owner. A suggested format for the tax envelope is shown in subsection (7) of this rule.

(d)1. Obtain from each registered flea market vendor a photocopy of the vendor's Certificate of Registration, or in lieu thereof, a statement from the registered vendor attesting that the vendor has a valid Certificate of Registration. The

statement should contain the registration number, the effective date the number was issued, and should be signed by the vendor.

2. Provide each registered flea market vendor with a sign no smaller than 8" x 10" with lettering at least 1" high, which must be displayed in a conspicuous place at the stall or other place of sale by the vendor, and which reads as follows:

"Name of vendor" is duly authorized to collect and remit Florida sales tax to the Department of Revenue.

(4) A flea market operator, manager, lessor or owner may refuse to lease space to any flea market vendor who fails to provide the documents required under subsection (3)(c) or (d) above. These documents shall be retained for a period of three years.

(5) A flea market operator, manager, lessor or owner is required to remit the sales tax collected from each unregistered flea market vendor when the vendor has collected and remitted the tax to the flea market operator, manager, lessor or owner at the same time and on the same tax return as required for the space rentals. Flea market vendors with an estimated monthly sales tax liability of \$50.00 or greater must register with the department and report their own taxes. Flea market vendors with an estimated monthly sales tax liability of less than \$50.00 must elect to either remit the tax to the flea market operator, manager, lessor or owner, or to register, report, and remit his own taxes. Taxes collected become state funds at the moment of collection. Any person who, with intent to unlawfully deprive or defraud the state of its moneys or the use or benefit thereof, or who fails to remit taxes collected pursuant to Chapter 212, F.S., is guilty of theft of state funds, punishable as provided by Section 775.082, 775.083, 775.084, F.S., which are referenced in Section 212.15, F.S.

(6) A flea market operator, manager, lessor or owner shall furnish and post signs at each entrance of the flea market and in other conspicuous places throughout the flea market area. Such signs must state that "Florida Law Requires Sales Tax To Be Collected On All Taxable Sales." The signs shall have lettering of at least 3 inches high.

(7) A suggested format for the flea market tax envelopes is as follows:

FLEA MARKET TAX COLLECTION ENVELOPE
6% TAXABLE TRANSACTIONS
THE LAW REQUIRES THIS TO BE
FILLED OUT - NO EXCEPTIONS!

Print Full Name _____
Street _____ City _____
Phone No. _____ Booth No. _____

(SIGNATURE)

All Sales Tax Must Be Turned The name of any person failing

In At The Close of Business
Each Day—No Exceptions:
SALES TAX BRACKET

to COLLECT and TURN IN
Sales Tax will be turned
over to the Department of
Revenue.

Amount of Sale	Tax	Amount of Sale	Tax	AMOUNT OF EACH SALE*	AMOUNT OF TAX
10	.16	5.10	5.16	.31	_____
17	.33	5.17	5.33	.32	_____
.34	.50	5.34	5.50	.33	_____
.51	.66	5.5	5.66	.34	_____
.67	.83	5.67	5.83	.35	_____
.84	1.09	5.84	6.09	.36	_____
1.10	1.16	6.10	6.16	.37	_____
1.17	1.33	6.17	6.33	.38	_____
1.34	1.50	6.34	6.50	.39	_____
1.51	1.66	6.51	6.66	.40	_____
1.67	1.83	6.67	6.83	.41	_____
1.84	2.09	6.84	7.09	.42	_____
2.10	2.16	7.10	7.16	.43	_____
2.17	2.33	7.17	7.33	.44	_____
2.34	2.50	7.34	7.50	.45	_____
2.51	2.66	7.51	7.66	.46	_____
2.67	2.83	7.67	7.83	.47	_____
2.84	3.09	7.84	8.09	.48	_____
3.10	3.16	8.10	8.16	.49	_____
3.17	3.33	8.17	8.33	.50	_____
3.34	3.50	8.34	8.50	.51	_____
3.51	3.66	8.51	8.66	.52	_____
3.67	3.83	8.67	8.83	.53	_____
3.84	4.09	8.84	9.09	.54	_____
4.10	4.16	9.10	9.16	.55	_____
4.17	4.33	9.17	9.33	.56	_____
4.34	4.50	9.34	9.50	.57	_____
4.51	4.66	9.51	9.66	.58	_____
4.67	4.83	9.67	9.83	.59	_____
4.84	5.09	9.84	10.09	.60	_____

TOTALS FOR

DAY	MO.	YR.	SALES	SALES TAX
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ATTACH ADDITIONAL SHEETS AS NEEDED

*In lieu of listing each sale separately, the vendor may list gross taxable sales and the total tax collected at the applicable rate for each individual sale.

FLEA MARKET TAX COLLECTION ENVELOPE

6 1/2% TAXABLE TRANSACTIONS

THE LAW REQUIRES THIS TO BE

FILLED OUT NO EXCEPTIONS!

Print Full Name _____
Street _____ City _____
Phone No. _____ Booth No. _____

(SIGNATURE)

All Sales Tax Must Be Turned In At The Close of Business Each Day—No Exceptions: SALES TAX BRACKET

The name of any person failing to COLLECT and TURN IN Sales Tax will be turned over to the Department of Revenue.

Amount of Sale	Tax	Amount of Sale	Tax	AMOUNT OF EACH SALE*	AMOUNT OF TAX
.10	.15	5.08	5.23	.34	_____
.16	.30	5.24	5.38	.35	_____
.31	.46	5.39	5.53	.36	_____
.47	.61	5.54	5.69	.37	_____
.62	.76	5.70	5.84	.38	_____
.77	.92	5.85	6.09	.39	_____
.93	1.07	6.10	6.15	.40	_____
1.08	1.23	6.16	6.30	.41	_____
1.24	1.38	6.31	6.46	.42	_____
1.39	1.53	6.47	6.61	.43	_____
1.54	1.69	6.62	6.76	.44	_____
1.70	1.84	6.77	6.92	.45	_____
1.85	2.09	6.93	7.07	.46	_____
2.10	2.15	7.08	7.23	.47	_____
2.16	2.30	7.24	7.38	.48	_____
2.31	2.46	7.39	7.53	.49	_____
2.47	2.61	7.54	7.69	.50	_____
2.62	2.76	7.70	7.84	.51	_____
2.77	2.92	7.85	8.09	.52	_____
2.93	3.07	8.10	8.15	.53	_____
3.08	3.23	8.16	8.30	.54	_____
3.24	3.38	8.31	8.46	.55	_____
3.39	3.53	8.47	8.61	.56	_____
3.54	3.69	8.62	8.76	.57	_____
3.70	3.84	8.77	8.92	.58	_____
3.85	4.09	8.93	9.07	.59	_____
4.10	4.15	9.08	9.23	.60	_____
4.16	4.30	9.24	9.38	.61	_____
4.31	4.46	9.39	9.53	.62	_____
4.47	4.61	9.54	9.69	.63	_____
4.62	4.76	9.70	9.84	.64	_____
4.77	4.92	9.85	10.09	.65	_____
4.93	5.07	_____	_____	_____	_____

TOTALS FOR

DAY	MO.	YR.	SALES	SALES TAX
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ATTACH ADDITIONAL SHEETS AS NEEDED

*In lieu of listing each sale separately, the vendor may list gross taxable sales and the total tax collected at the applicable rate for each individual sale.

FLEA MARKET TAX COLLECTION ENVELOPE

7% TAXABLE TRANSACTIONS
THE LAW REQUIRES THIS TO BE FILLED OUT NO EXCEPTIONS!

Print Full Name
Street City
Phone No. Booth No.

(SIGNATURE)

All Sales Tax Must Be Turned In At The Close of Business Each Day - No Exceptions. SALES TAX BRACKET

Table with columns: Amount of Sale, Tax, Amount of Sale, Tax, AMOUNT OF EACH SALE*, AMOUNT OF TAX. Rows range from .10-.14 to 4.29-4.42.

Table with columns: 4.43-4.57, 4.58-4.71, 4.72-4.85, 4.86-5.09, 9.43-9.57, 9.58-9.71, 9.72-9.85, 9.86-10.09.

TOTALS FOR

DAY MO. YR. SALES SALES TAX
ATTACH ADDITIONAL SHEETS AS NEEDED

*In lieu of listing each sale separately, the vendor may list gross taxable sales and the total tax collected at the applicable rate for each individual sale.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(2),(5),(8),(10),(12),(13),(14),(15),(16), (19), 212.031, 212.05, 212.06, 212.07, 212.11, 212.12, 212.13, 212.15, 212.18(2),(3), 212.21(2), 213.35 FS. History-New 6-10-87, Amended 12-13-88, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert D. Heyde, Senior Attorney, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)488-6386

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed rule amendment to Rule 12A-1.098, F.A.C., was noticed for a Rule Development Workshop in the Florida Administrative Weekly on December 24, 1998 (Vol. 24, No. 52, p. 6911). The workshop was held on January 27, 1999. No one appeared at the workshop to testify, and no one submitted written comments.

DEPARTMENT OF REVENUE

Miscellaneous Tax

Table with columns: RULE TITLES, RULE NOS.: Computation of Tax; Definitions (12B-4.052), Taxable Documents (12B-4.053), Exempt Transactions (12B-4.054)

PURPOSE AND EFFECT: The proposed amendments incorporate the 1998 law changes to Chapter 201, F.S. The legislation amended s. 201.09(1), F.S., resulting in the elimination of the requirement to prepare a side note when renewing a term note for an amount exceeding the unpaid balance, or when renewing a note evidencing a revolving obligation for an amount exceeding the original face amount. Additionally, language concerning renewal notes in Rule 12B-4.054(1)(c), F.A.C., is being eliminated, because it is

almost verbatim with the language in Rule 12B-4.053(29), F.A.C. Language clarifying a taxable renewal in a refinancing situation is being added to Rule 12B-4.053(24), F.A.C.

SUMMARY: Provides new requirements for renewing term notes and notes evidencing revolving obligations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since the amendments to these rule provisions do not implement any new administrative programs or procedures, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 201.11, 213.06(1) FS.

LAW IMPLEMENTED: 201.01, 201.08, 201.09, 201.10, 201.11, 201.21, 201.22, 201.23, 201.24, 517.32 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., April 27, 1999

PLACE: Carlton Building, Room B-12, 501 S. Calhoun St., Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joy Eldred, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443; Phone (850)922-4844

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding before the Technical Assistance and Dispute Resolution Office should call (850)922-4704 (voice) or 1(800)367-8331 (TDD) at least five working days before such proceeding.

THE FULL TEXT OF THE PROPOSED RULES IS:

12B-4.052 Computation of Tax; Definitions.

(1) through (11) No change.

(12) Renewal Note, Mortgage, Trust Deed, Security Agreement or Other Evidence of Indebtedness:

(a) A written agreement which alters or modifies the contract or obligation of an original promissory note, mortgage, trust deed, security agreement, or other evidence of indebtedness, by adding one or more obligors, increasing the principal balance, changing the interest rate, changing the maturity date, changing the payment terms, or assuming the terms of the original contract or obligation is a renewal of the original note, mortgage, trust deed, security agreement, or other evidence of indebtedness. A renewal which changes the interest rate, maturity date or the payment terms is not subject to tax where the tax was paid on the original document. A renewal which adds one or more obligors, ~~increases the unpaid~~

~~balance of a term loan, or increases the face amount of a revolving line of credit, or where the tax was not paid on the original document, is subject to tax on the full amount. A renewal evidencing a term obligation which increases the unpaid principal balance is subject to tax only on the increased amount. A renewal evidencing a revolving obligation which increases the original face amount of the obligation is subject to tax only on the increased amount. In either instance, a separate side note is not required. The principal balance or original face amount can be indicated by a notation on the renewal document, by reference to the document being renewed, or by other proof retained by the borrower(s) or lender.~~ See also s. 201.09, F.S. Cross Reference-Rules 12B-4.051(1), 12B-4.053(19), F.A.C., and s. 201.08, F.S.

(b) through (c) No change.

(13) No change.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.08, 201.09 FS. History—Revised 8-18-73, Formerly 12A-4.52, Amended 8-8-78, 3-12-79, 2-3-80, 3-30-81, 8-29-84, Formerly 12B-4.52, Amended 12-5-89, 2-13-91, 10-18-94, 12-30-97, 7-28-98,_____.

12B-4.053 Taxable Documents.

(1) through (23) No change.

(24) Renewal notes: Renewed notes are taxable ~~for the full amount of the obligation or indebtedness evidenced thereby,~~ unless they meet the requirements of s. 201.09(1), F.S. A refinancing of a promissory note where the original note and mortgage are satisfied is not a renewal and is subject to tax on the full amount of the refinanced note. Examples of renewal notes requiring tax include but are not limited to the following notes, where:

(a) through (b) No change.

(c) An additional obligor is added.

(d) The original note is assumed by another person.

(e) No change.

(25) through (34) No change.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.08, 201.09 FS. History—Revised 8-18-73, Formerly 12A-4.53, Amended 2-21-77, 11-29-79, 4-11-80, 7-27-80, 12-23-80, 3-30-81, 12-30-82, 8-29-84, Formerly 12B-4.53, Amended 12-29-86, 12-5-89, 2-13-91, 10-18-94, 12-30-97, 7-28-98,_____.

12B-4.054 Exempt Transactions.

(1)(a) through (b) No change.

~~(c) Renewal of a master note, note drawn in connection with a letter of credit, bail bond or otherwise is exempt if, at date of renewal, the face amount of the renewal note does not exceed the unpaid balance of the original note and all other requirements of s. 201.09, F.S., are met. Cross Reference Rule 12B-4.053(29), F.A.C.~~

~~(c)(d)~~ A note renewing a revolving obligation may be renewed tax free for the ~~full original~~ face amount of the original obligation provided all other requirements of s. 201.09, F.S., are met. A revolving obligation renewed for an amount greater than the original face amount is taxable on the

amount of the increase, and a term note renewed for an amount greater than the unpaid balance is taxable on the amount of the increase. Term notes such as construction loans or other loans with periodic disbursements may be renewed for the undisbursed amount together with ~~only~~ the unpaid balance of the amount which was previously disbursed without incurring additional tax. Cross Reference-Rule 12B-4.052(12)(a), F.A.C.

(d)(~~e~~) No change.

(2) through (31) No change.

Specific Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.08, 201.09, 201.10, 201.11, 201.21, 201.22, 201.23, 201.24, 517.32 FS. History-Revised 8-18-73, Formerly 12A-4.54, Amended 2-21-77, 11-29-79, 3-5-80, 4-11-80, 7-27-80, 12-23-80, 2-12-81, Formerly 12B-4.54, Amended 3-30-81, 12-3-81, 12-29-86, 12-5-89, 2-13-91, 10-18-94, 12-30-97, 7-28-98.

NAME OF PERSON ORIGINATING PROPOSED RULE: Joy Eldred, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443; Phone (850)922-4844

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443; Phone (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT WORKSHOP PUBLISHED IN FAW: The proposed rule amendments to Rule 12B-4.052, 12B-4.053, and 4.054, F.A.C., were noticed for a Rule Development Workshop in the Florida Administrative Weekly on January 8, 1999 (Vol. 25, No. 1, pp.1-2). The workshop was held on January 28, 1999. No one appeared at the workshop to testify. Written comments were submitted. A change was made to Rule 12B-4.052(12)(a), F.A.C., as a result of the written comments.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE TITLE: Tax Statement; Overpayments

RULE NO.: 12B-8.003

PURPOSE AND EFFECT: The proposed amendments to Rule Chapter 12B-8, F.A.C., are needed to adopt administrative revisions to both the quarterly installment payment coupons, Form DR-907, and the annual tax return, Form DR-908.

SUMMARY: Changes to amend the title of Form DR-907. Also, the Department plans to incorporate updates to the annual return for the Florida Life and Health Guaranty Association credit, and police officers' and firefighters' pension trust fund schedules. Finally, the Department will address clarifying the existing filing instructions on both of these documents.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since the creation of these rule provisions does not implement any new administrative

program or procedure, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 213.06(1) FS.

LAW IMPLEMENTED: 213.05, 213.37, 624.5092, 624.511, 624.518 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., April 27, 1999

PLACE: Conference Room, Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Paul Munyon, Tax Law Specialist, Technical Assistance and Dispute Resolution, Post Office Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4708

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding before the Technical Assistance and Dispute Resolution Office should call (850)488-8026 (voice) or 1(800)367-8331 (TDD), at least five working days before such proceeding.

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-8.003 Tax Statement; Overpayments.

(1) Tax returns and reports shall be made by insurers on forms prescribed by the Department. The Department prescribes Form DR-907, Florida Department of Revenue Insurance Premium Installment Payment Quarterly Tax Return, dated January 1999 ~~1998~~, and Form DR-908, Florida Department of Revenue Insurance Premium Taxes and Fees Tax Return, dated January 1999 ~~1998~~, and accompanying instructions as the forms to be used for the purpose of this chapter and hereby incorporates these forms by reference.

(2) Copies of the forms DR-907 and DR-908 are available by: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at 850-922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at 850-922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain copies; or, 5) calling the Forms Request Line during regular office hours at 1-800-352-3671 (in Florida only) or 850-488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/>). Persons with hearing or speech impairments may call the Department's TDD at

~~1-800-367-8331. Copies of these forms may be obtained without cost by written request to the Department of Revenue, Tax Information Services, 5050 W. Tennessee St., Tallahassee, Florida 32399-0100. Alternatively, persons outside Florida may obtain these forms by calling (904)488-6800, while persons in Florida may call 1-800-352-3671.~~

(3) The prescribed forms shall be sworn by one or more of the executive officers or attorney (if reciprocal insurer) of the insurer making the return, by signing the return after attesting to the following:

"Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct and complete. If prepared by a person other than the taxpayer, this declaration is based on all information of which the preparer has any knowledge [~~§92.525(1)(b), Florida Statutes~~]." Tax returns and accompanying data will be maintained by the Department for purposes of analysis and audit.

(4) No change.

Specific Authority 213.06(1) FS. Law Implemented 213.05, 213.37, 624.5092, 624.511, 624.518 FS. History—New 2-3-80, Formerly 12B-8.03, Amended 3-25-90, 3-10-91, 2-18-93, 6-16-94, 12-9-97, 3-23-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Paul Munyon, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4708

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Felix, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4111

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 1999

DATE A NOTICE OF PROPOSED RULE DEVELOPMENT WAS PUBLISHED IN FAW: Proposed Rule 12B-8.003, F.A.C., was noticed for a Rule Development Workshop in the Florida Administrative Weekly on January 8, 1999 (Vol. 25, No. 1, pp. 2-3). The workshop was held on January 26, 1999. No one appeared at the workshop to testify, and no one submitted written comments.

DEPARTMENT OF REVENUE

Division of Ad Valorem Tax

RULE TITLE: Cancellation of Void Tax Certificates and Tax Deeds; Procedure; Return of Payments
 RULE NO.: 12D-13.057

PURPOSE AND EFFECT: The proposed amendment to repeal subsection (3) of rule section 12D-13.057, F.A.C., is necessary to conform the Department's rules to the revised provisions of the Administrative Procedure Act (Chapter 120, Florida

Statutes). Repeal of this rule subsection removes a provision that establishes a duty of the clerks of court to provide information on erroneous tax deeds.

SUMMARY: Deletes a rule provision requiring the clerk of court to provide information on erroneous tax deeds.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since the deletion of this rule provision does not implement any new administrative program or procedure, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 195.027(1), 213.06(1) FS.

LAW IMPLEMENTED: 197.122, 197.182, 197.432, 197.442, 197.443, 197.444, 197.447, 213.05 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m. April 27, 1999

PLACE: Conference Room, Room B-12, Carlton Building, 501 S. Calhoun St., Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon Gallops, Tax Law Specialist, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)414-6108

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding before the Technical Assistance and Dispute Resolution Office should call (850)488-8026 (voice) or 1(800)367-8331 (TDD), at least five working days before such proceeding.

THE FULL TEXT OF THE PROPOSED RULE IS:

12D-13.057 Cancellation of Void Tax Certificates and Tax Deeds; Procedure; Return of Payments.

(1) through (2) No change.

~~(3) It shall be the duty of the clerk of the court to inform the Department and proceed pursuant to the guideline established in Rule 12D-13.066, F.A.C.~~

(4) through (9) renumbered (3) through (8) No change.

Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 197.122, 197.182, 197.432, 197.442, 197.443, 197.444, 197.447, 213.05 FS. History—New 6-18-85, Formerly 12D-13.57, Amended 5-23-91, 12-31-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sharon Gallops, Tax Law Specialist, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)414-6108

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jerry Miller, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)414-6100

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT/RULE DEVELOPMENT WORKSHOP PUBLISHED IN FAW: December 24, 1998, Vol. 24, No. 52, pp. 6918-6919. A workshop was held on January 27, 1999. No one appeared at the workshop and no one submitted written comments.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Incorporation by Reference
 RULE CHAPTER NO.: 14-15
 RULE TITLE: Toll Facilities Description and Toll Rate Schedule
 RULE NO.: 14-15.0081

PURPOSE AND EFFECT: The rulemaking notice is to inform the public of proposed revisions to the Toll Facilities Description and Toll Rate Schedule required by the implementation of the Department of Transportation's SUNPASS™ toll rate discount program on the Navarre Bridge (SR 399) in Santa Rosa County. Section 1, Chapter 97-280, Laws of Florida, directs the Department to offer a toll discount to frequent users who use SUNPASS™ electronic toll collection on Florida's Turnpike facilities.

SUMMARY: The proposed action is being taken to apply the Department's SUNPASS™ toll rate discount to the Navarre Bridge, which links the Mainland with Santa Rosa Island. The Navarre Bridge's existing two-axle vehicle toll discount program will be continued (with the use of a SUNPASS™ transponder). In addition, a toll discount will be provided to all vehicles using SUNPASS™ and meeting the requirements of the SUNPASS™ toll discount program.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 338.222, 338.231, 338.155 FS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No estimate of regulatory costs has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 7:00 p.m., April 26, 1999 (Informational session to begin at 5:00 p.m.)

PLACE: Comfort Inn Navarre Conference Center, 8680 Navarre Parkway, Navarre, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James C. Myers, Administrative and Management Support Level IV, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULE IS:

14-15.0081 Toll Facilities Description and Toll Rate Schedule.

The Toll Facilities Description and Toll Rate Schedule, adopted November 15, 1987, and amended on February 8, 1988, August 1, 1988, February 2, 1989, May 10, 1989, July 1, 1991, August 1, 1991, November 6, 1991, July 11, 1993, November 28, 1993, September 18, 1994, June 6, 1995, July 9, 1995, January 1, 1996, March 31, 1996, April 28, 1996, June 2, 1996, July 28, 1996, September 23, 1997, November 24, 1997, February 12, 1998, June 30, 1998, July 29, 1998, January 6, 1999, and February 9, 1999, and _____, 1999, is hereby incorporated by this rule and made a part of the rules of the Department. Copies of this Department of Transportation Toll Facilities Description and Toll Rate Schedule and any amendments thereto are available at no more than cost.

Specific Authority 334.044(2) FS. Law Implemented 338.222, 338.231, 338.155 FS. History—New 11-15-87, Amended 2-8-88, 8-1-88, 2-2-89, 5-10-89, 7-1-91, 8-1-91, 11-6-91, 7-11-93, 11-28-93, 9-18-94, 6-6-95, 7-9-95, 1-1-96, 3-31-96, 4-28-96, 6-2-96, 7-28-96, 9-23-97, 11-24-97, 2-12-98, 6-30-98, 7-29-98, 1-6-99, 2-9-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Deborah H. Stemle, Director, Office of Toll Operations

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas F. Barry, Jr., P.E., Secretary

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: March 22, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 12, 1999

PUBLIC SERVICE COMMISSION

DOCKET NO. 980253-TX

RULE TITLES: Scope and Definitions 25-4.300
 Applicability of Fresh Look 25-4.301
 Termination of LEC Contracts 25-4.302

PURPOSE AND EFFECT: To enable ALECs to compete for existing ILEC customer contracts covering local telecommunications services offered over the public switched network, which were entered into prior to switch-based substitutes for local exchange telecommunications services.

SUMMARY: The rules describe those limited circumstances under which a customer may terminate an ILEC contract service arrangement or tariffed term plan (collectively, contracts), subject to a termination liability less than that specified in the contract. Those limited circumstances are for

customer contracts covering local telecommunications services offered over the public switched network, which were entered into over the public switched network, which were entered into prior to the effective date of this rule, and that are still in effect and will remain in effect for at least six months after the effective date of this rule. In these limited circumstances, a customer may terminate said contract, during the "fresh look window", by paying only any unrecovered non-recurring cost which the ILEC has incurred. The "fresh look window" will begin 60 days following the effective date of this rule and end two years later.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: If the proposed Fresh Look rule becomes effective, a LEC will lose the revenues it would have earned from a customer who terminates early, except for the portion of those revenues associated with nonrecurring costs. A LEC would only experience a financial loss if its unrecovered, contract specific nonrecurring costs exceeded the termination liability specified in the controlling contract or tariff. LECs were generally unable to estimate the amount of costs, if any, they would not be able to recover since it is unknown which contracts might be terminated. The addition of the phrase "and have not elected price cap regulations" in section 25-24.300(1) includes all companies that may have competition in the area. Small LECs will be impacted to the extent that they have these types of contracts.

LECs would incur relatively minor administrative and labor costs to provide the Statement of Termination Liability to customers. Transactional costs for ALECs should be limited to the administrative cost of setting up new customer accounts. End-user customers should benefit from the proposed rules by having the opportunity to obtain services at lower rates with limited liability for contract termination charges.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127(2) FS.

LAW IMPLEMENTED: 364.19 FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 a.m., Wednesday, May 12, 1999

PLACE: Betty Easley Conference Center, 4075 Esplanade Way, Room 152, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THESE PROPOSED RULES IS: Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6245

THE FULL TEXT OF THE PROPOSED RULES IS:

PART XII – FRESH LOOK

25-4.300 Scope and Definitions.

(1) Scope. For the purposes of this Part, all contracts that include local telecommunications services offered over the public switched network, between LECs and end users, which were entered into prior to the effective date of this rule, that are in effect as of the effective date of this rule, and are scheduled to remain in effect for at least six months after the effective date of this rule will be contracts eligible for Fresh Look. Local telecommunications services offered over the public switched network are defined as those services which include provision of dial tone and flat-rated or message-rated usage. If an end user exercises an option to renew or a provision for automatic renewal, this constitutes a new contract for purposes of this Part, unless penalties apply if the end user elects not to exercise such option or provision. This Part does not apply to LECs which had fewer than 100,000 access lines as of July 1, 1995, and have not elected price-cap regulation. Eligible contracts include Contract Service Arrangements (CSAs) and tariffed term plans in which the rate varies according to the end user's term commitment.

(2) For the purposes of this Part, the definitions to the following terms apply:

(a) "Fresh Look Window" – The period of time during which LEC end users may terminate eligible contracts under the limited liability provision specified in Rule 25-4.302(3).

(b) "Notice of Intent to Terminate" – The written notice by an end user of the end user's intent to terminate an eligible contract pursuant to this rule.

(c) "Notice of Termination" – The written notice by an end user to terminate an eligible contract pursuant to this rule.

(d) "Statement of Termination Liability" – The written statement by a LEC detailing the liability pursuant to 25-4.302(3), if any, for an end user to terminate an eligible contract.

Specific Authority 350.127(2) FS. Law Implemented 364.19 FS. History—New _____.

25-4.301 Applicability of Fresh Look.

(1) The Fresh Look Window shall apply to all eligible contracts.

(2) The Fresh Look Window shall begin 60 days after the effective date of this rule.

(3) The Fresh Look Window shall remain open for two years from the starting date of the Fresh Look Window.

(4) An end user may only issue one Notice of Intent to Terminate during the Fresh Look Window for each eligible contract.

Specific Authority 350.127(2) FS. Law Implemented 364.19 FS. History—New

25-4.302 Termination of LEC Contracts.

(1) Each LEC shall respond to all Fresh Look inquiries and shall designate a contact within its company to which all Fresh Look inquiries and requests should be directed.

(2) An end user may provide a written Notice of Intent to Terminate an eligible contract to the LEC during the Fresh Look Window.

(3) Within ten business days of receiving the Notice of Intent to Terminate, the LEC shall provide a written Statement of Termination Liability. The termination liability shall be limited to any unrecovered, contract specific nonrecurring costs, in an amount not to exceed the termination liability specified in the terms of the contract. The termination liability shall be calculated from the information contained in the contract or the workpapers supporting the contract. If a discrepancy arises between the contract and the workpapers, the contract shall be controlling. In the Statement of Termination Liability, the LEC shall specify if and how the termination liability will vary depending on the date services are disconnected pursuant to subsections (4) and (6) and on the payment method selected in subsection (5).

(4) From the date the end user receives the Statement of Termination Liability from the LEC, the end user shall have 30 days to provide a Notice of Termination. If the end user does not provide a Notice of Termination within 30 days, the eligible contract shall remain in effect.

(5) If the end user provides the Notice of Termination, the end user will choose and pay any termination liability according to one of the following payment options:

(a) One-time payment of the unrecovered nonrecurring cost, as calculated from the contract or the work papers supporting the contract, at the time of service termination; or

(b) Monthly payments, over the remainder of the term specified in the now terminated contract, equal to that portion of the recurring rate which recovers the nonrecurring cost, as calculated from the contract or the work papers supporting the contract.

(6) The LEC shall have 30 days to terminate the subject services from the date the LEC receives the Notice of Termination.

Specific Authority 350.127(2) FS. Law Implemented 364.19 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Sally Simmons

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 16, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 24, No. 11, March 13, 1998

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (850)413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1(800)955-8771 (TDD).

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Auctioneers

RULE TITLE: Examination for Licensure

RULE NO.: 61G2-2.002

PURPOSE AND EFFECT: Rule 61G2-2.002 is being amended to specify that fees paid to the Department may be transferred, as opposed to fees paid to a professional testing service as reflected in the proposed amendments to Rule 61G2-3.003.

SUMMARY: The proposed rule amendment specifies that fees paid to the Department may be transferred, as opposed to fees paid to a professional testing service.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 468.384(2) FS.

LAW IMPLEMENTED: 455.217(1)(b), 468.385, 120.60(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ed Broyles, Executive Director, Board of Auctioneers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G2-2.002 Examination for Licensure.

(1) through (4) No change.

(5) The Board shall review all applicants for licensure by examination and approve their qualifications before an applicant will be permitted to sit for the examination. The application fee is non-refundable. Should an applicant be denied approval to sit for the examination, the examination fee shall be refunded. The examination fee paid to the Department may be transferred to a subsequent examination upon the applicant's written request, if the request is received in the Board office at least 20 days prior to the scheduled examination date.

(6) No change.

Specific Authority 468.384(2) FS. Law Implemented 455.217(1)(b), 468.385, 120.60(2) FS. History--New 5-10-87, Amended 10-20-87, 6-5-88, 5-11-89, Formerly 21BB-2.002, Amended 9-27-93, 8-20-96,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Auctioneers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Auctioneers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 4, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 26, 1999

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Veterinary Medicine

RULE TITLE: Renewal of Active Status License for Veterinarians

RULE NO.:

61G18-12.005

PURPOSE AND EFFECT: The Board proposed to amend the existing rule to reduce the renewal fee of active status license to \$160.00.

SUMMARY: The proposed rule amendment reduces the renewal fee of active status license to \$160.00.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: (If one has been prepared).

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 474.206, 474.211 FS.

LAW IMPLEMENTED: 474.211, 474.2065 FS.

IF REQUESTED IN WITHIN 21 DAYS OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL BE HE HELD).

TIME AND DATE: 10:00 a.m., April 26, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Currie, Executive Director, Board of Veterinary Medicine, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G18-12.005 Renewal of Active Status License Fee for Veterinarians.

The fee for biennial renewal of an active status license shall be ~~\$260.00~~\$160.00.

Specific Authority 474.206, 474.211 FS. Law Implemented 474.211, 474.2065 FS. History--New 11-14-79, Amended 3-1-84, Formerly 21X-12.05, Amended 12-14-87, 7-26-89, Formerly 21X-12.005, Amended 2-6-95,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Veterinary Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Veterinary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 26, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 1999

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLE: Standards of Practice – Continuous

RULE NO.:

Quality Improvement Program 64B16-27.300

PURPOSE AND EFFECT: The Board finds it necessary to promulgate a new rule in order to comply with Section 465.0155, Florida Statutes. The proposed new rule is intended to provide provisions that will govern the standards of practice for the Continuous Quality Improvement Program.

SUMMARY: The proposed new rule defines "Continuous Quality Improvement Program" and "Quality-Related Event" and sets forth their contents and the method of record keeping.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 465.0155 FS.

LAW IMPLEMENTED: 465.0155 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., April 27, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John D. Taylor, Executive Director, Board of Pharmacy/MQA, 2020 Capital Circle, S. E., Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-27.300 Standards of Practice – Continuous Quality Improvement Program.

(1) “Continuous Quality Improvement Program” means a system of standards and procedures to identify and evaluate quality-related events and improve patient care.

(2) “Quality-Related Event” means the inappropriate dispensing of a prescribed medication including:

(a) a variation from the prescriber’s prescription order, including, but not limited to:

1. dispensing an incorrect drug;
2. dispensing an incorrect drug strength;
3. dispensing an incorrect dosage form;
4. dispensing the drug to the wrong patient; or
5. providing inadequate or incorrect packaging, labeling, or directions.

(b) a failure to identify and manage:

1. over-utilization or under-utilization;
2. therapeutic duplication;
3. drug-disease contraindications;
4. drug-drug interactions;
5. incorrect drug dosage or duration of drug treatment;
6. drug-allergy interactions; or
7. clinical abuse/misuse.

(3)(a) Each pharmacy shall establish a Continuous Quality Improvement Program which program shall be described in the pharmacy’s policy and procedure manual and, at a minimum shall contain:

1. provisions for a Continuous Quality Improvement Committee that may be comprised of staff members of the pharmacy, including pharmacists, pharmacy interns, pharmacy technicians, clerical staff, and other personnel deemed necessary by the prescription department manager of the consultant of record;

2. provisions for the prescription department manager or the consultant pharmacist of record to ensure that the committee conducts a review of Quality Related Events at least every three months;

3. a planned process to record, measure, assess, and improve the quality of patient care; and

4. the procedure for reviewing Quality Related Events.

(b) As a component of its Continuous Quality Improvement Program, each pharmacy shall assure that, following a Quality-Related Event, all reasonably necessary steps have been taken to remedy any problem for the patient. Records shall be maintained for two years of all remedial measures undertaken following a Quality-Related Event.

(c) At a minimum, the review shall consider the effects on quality of the pharmacy system due to staffing levels, workflow, and technological support.

(4) Each Quality-Related Event that occurs, or is alleged to have occurred, as the result of activities in a pharmacy, shall be documented in a written record or computer database created solely for that purpose. The Quality-Related Event shall be initially documented by the pharmacist to whom it is described, and it shall be recorded on the same day of its having been described to the pharmacist. Documentation of a Quality-Related Event shall include a description of the event that is sufficient to permit categorization and analysis of the event. Pharmacists shall maintain such records for at least two years from the date of their creation.

(5) Records maintained as a component of a pharmacy Continuous Quality Improvement Program are confidential under the provisions of section 766.101, F.S. In order to determine compliance the Department may review the policy and procedures and a Summarization of Quality-Related Events. The summarization document shall analyze remedial measures undertaken following a Quality-Related Event. At a minimum, the review shall consider the effects on quality of pharmacy systems due to staffing levels, workflow, and technological support. No patient name or employee name shall be included in this summarization. Records are considered peer-review documents and are not subject to discovery in civil litigation or administrative actions.

(6) The provisions of this rule shall become effective on October 1, 1999, if Florida statutory law is amended by that date to make any investigations, proceedings, or records of a Continuous Quality Improvement Program not subject to discovery or introduction into evidence in any civil or administrative action. In the event that Florida statutory law is not amended by that date to include such a provision, this rule is null and void.

Specific Authority 465.0155 FS. Law Implemented 465.0155 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Pharmacy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pharmacy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 2, 1999
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 31, 1998

NOTE: Delete/add coding is used to show changes from the language proposed in the rule amendment.
 These revisions are to clarify the special restrictions relating to the Interstate Highway System, Florida's Turnpike, and limited access roadways.

A revised text of the rule amendment will be available from: James C. Myers, Administrative and Management Support Level IV, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458.

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER NO.: 14-43
 RULE CHAPTER TITLE: Regulation of Encroachments Over State Rights of Way
 RULE NO.: 14-43.001
 RULE TITLE: Regulation of Encroachments Over State Rights of Way

DEPARTMENT OF CITRUS

RULE CHAPTER NO.: 20-111
 RULE CHAPTER TITLE: Ownership and Use of "Made With Florida Citrus" Certification Mark
 RULE NO.: 20-111.0021
 RULE TITLE: Exclusive Category Rights

NOTICE OF CHANGE

NOTICE OF CONTINUANCE

SUMMARY OF CHANGE: Notice is hereby given that the following changes have been made to the proposed amendments to rule 14-43.001 in accordance with subparagraph 120.54(3)(d)1., Florida Statutes. Notice of rulemaking was published in Vol. 24, No. 12, March 26, 1999, issue of the Florida Administrative Weekly.

The Department of Citrus announces a continuation of the public hearing for the above proposed rule section which was published in Vol. 25, No. 5, of the Florida Administrative Weekly, February 5, 1999.

1. Move the last sentence of 14-43.001(3)(j)2.c. to a new 14-43.001(3)(i).
2. Renumber the propose 14-43.001(3)(i) to 14-43.001(3)(j).
3. Delete the previously proposed 14-43.001(3)(j), including 1. and 2.
4. Revise 14-43.001(3)(k) as to read as follows:

ADDITIONAL HEARING DATE AND TIME: 10:30 a.m., April 21, 1999

PLACE: Department of Citrus Building, 1115 E. Memorial Blvd., Lakeland, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joan B. Martin, Administrative Assistant, Department of Citrus, Legal Department, P. O. Box 148, Lakeland, Florida 33802

"(j)(*) In addition to the conditions identified in Subsections (3)(a) through (i) above, the following conditions apply to ~~On~~ the Interstate Highway System, Florida's Turnpike, and limited access roadways:

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-3.002
 RULE TITLE: Care of Inmates
NOTICE OF CHANGE

1. Pole banners will only be permitted for display for a duration not to exceed 60 consecutive days and only for events of national or international significance, provided the municipality has not hosted the event within the preceding 12 months. The following are examples of events for which pole banners may be permitted on the Interstate Highway System, Florida's Turnpike, and limited access roadways:

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. 25, No. 7, February 19, 1999, issue of the Florida Administrative Weekly:

- a ~~1~~. The World Cup
- b ~~2~~. The Super Bowl
- c ~~3~~. The Stanley Cup
- d ~~4~~. The World Series
- e ~~5~~. Summit of the Americas
- f ~~6~~. The Olympic Games"

- 33-3.002 Care of Inmates.
- (1) through (16) No change.
- (17) Inmates who are unable to handle or read written material due to physical impairment (this includes those who are visually impaired, paraplegic or quadriplegic, or severely affected with arthritis) and who receive assistance from the Bureau of Braille and Talking Book Library Services shall be allowed to possess a tape player or record player from the Bureau. Any alteration of equipment provided by the Bureau shall result in confiscation of the equipment and suspension of those privileges. A tape recorder shall be available for inmate use at a location determined by the superintendent which

5. Move 14-43.001(3)(i)2.a., b., and c. (first sentence only) to 14-43.001(3)(k)2., 3., and 4.
6. Revise 14-43.001(4)(b)8. as follows:

"8. Load rating analysis by a registered professional engineer, if required by subsection (3)(i)~~(j)2-e.~~"