

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Susan J. Leigh, Chief Executive Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 1999, Corporation Board Meeting
 DATE PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 25, No. 12, March 26, 1999

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 III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF BANKING AND FINANCE

Division of Finance

RULE NO.:	RULE TITLE:
3D-40.027	Mortgage Broker Education Requirement

NOTICE OF CHANGE

Notice is hereby given that the Department has made a change to the above rule based on comments by the Joint Administrative Procedures Committee. This rule was published in the Vol. 25, No. 20, May 21, 1999 issue of the Florida Administrative Weekly. When adopted, subsection (4) of Rule 3D-40.027 will read:

(4) Within five (5) days of completion of each twenty-four (24) hour mortgage broker course, the school shall submit to the Department a typed list of all students who successfully completed the course. In lieu of the typed list, the school may submit the list on a 3.5" diskette or by e-mail or by accessing the Department's website at www.dbf.state.fl.us. The list shall include the full name of the student, the social security number of each student, the school's name, the school's license number and the completion date.

DEPARTMENT OF INSURANCE

RULES NOS.:	RULE TITLES:
4-196.007	Annual Reports
4-196.015	Forms Incorporated by Reference
4-196.020	Premium Financing of Products Not Regulated by the Insurance Code and Related Unfair Trade Practices Prohibited

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., Florida Statutes, published in Vol. 25, No. 13, April 2, 1999, issue of the Florida Administrative Weekly.

1. Subsection (2) of Rule 4-196.007, is changed by deleting "may result in administrative penalties or revocation of the premium finance license" and inserting "shall subject a license to fines as set forth in rule 4-207.007 and discipline as provided in ss. 627.832 and 627.833, F.S."

2. The Annual Report, incorporated by reference in subsection (2) of rule 4-196.015 is revised to provide the specific statute which must be complied with and to clarify certain instructions related to filling out the form. A copy of the revised form is available upon request.

3. Subsection (6) of rule 4-196.020 is revised by changing reference to Section 627.8405(4) to Section 627.8405(3).

All of these changes are the result of comments from the Joint Administrative Procedures Committee.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NO.:	RULE TITLE:
5J-13.004	Security Claims

NOTICE OF CHANGE

The Florida Department of Agriculture and Consumer Services, Division of Consumer Services, pursuant to Section 120.54(3)(d)1., Florida Statutes (Supp. 1998), provides notice that revisions in its proposed rule 5J-13.004, previously published in the Florida Administrative Weekly, Vol. 25, No. 10, on March 12, 1999, are limited to technical changes not affecting the substance of the rule. When changed, Rule 5J-13.004 will read as follows:

5J-13.004 Security Claims.

For purposes of s. 539.001(4), F.S., relating to the processing of consumer claims against a pawnbroker's security, the Department shall utilize the following procedures:

(1) Any person injured by the fraud, misrepresentation, breach of contract, financial failure, or violation of any provision of s. 539.001, F.S., may file a claim with the Department.

(2) Upon the filing of such claim, the Department shall investigate and, if warranted, shall send to the pawnbroker in question, by certified mail, notice of the Department's intent to adjudicate the claim. Such notice shall direct the pawnbroker to respond in writing to the Department, either admitting or denying the allegations in the claim or advising the Department that the claim has been satisfied. Such notice shall further advise the pawnbroker that the Department intends to make a demand for payment of the security proceeds if the claim is not

satisfied, and that the pawnbroker has a right to a hearing to contest its liability for the claim in accordance with Chapter 120, F.S.

(3)(a) If the pawnbroker admits liability for the claim, but fails to satisfy the claim or request a hearing, the Department shall thereupon enter an order adjudicating the claim and demanding payment from the pawnbroker.

(b) If the pawnbroker denies liability for the claim, but fails to request a hearing, the Department shall thereupon enter an order adjudicating the claim and demanding payment from the pawnbroker.

(c) If the pawnbroker requests a hearing to contest its liability for the claim, the Department shall process said request in accordance with Chapter 120, F.S.

(4) Upon failure of the pawnbroker to pay claims duly adjudicated by order of the Department, the Department shall proceed to pay the adjudicated claims from the proceeds of the pawnbroker's security. In the event the amount of all adjudicated claims exceeds the amount of the security proceeds, the Department shall pay the adjudicated claims on a pro rata basis until the amount of the security proceeds is exhausted. If not exhausted, the security shall remain amenable to subsequent duly adjudicated claims.

(5) In calculating the amount to award in each claim, the Department shall consider the amount financed in the original pawn transaction, or any extension thereof, and the extent to which any portion of the amount financed has been repaid by the claimant.

Specific Authority 539.001(22), 570.07(23) FS. Law implemented 539.001(4)(a)2. FS. History--New

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Food Safety

RULE NO.: 5K-4.010
 RULE TITLE: Fish and Fishery Products
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with §120.54(3)(d)1., F.S. published in Vol. 25, No. 18 on May 7, 1999, issue of the Florida Administrative Code Weekly:

(5) CRUSTACEA INCLUDING BLUE CRAB.

(a) General – This subsection provides requirements for the handling and processing of fish and fishery products which are crustacea, and are in addition to other requirements established in Chapter 500, F.S., the HACCP requirements incorporated by reference in 5K-4.002, F.A.C., the provisions of 5K-4.004, F.A.C., General Requirements for the Manufacturing, Processing, Packing, Holding, and Retailing of Foods, and the other sections of this chapter.

(b)(*) Definitions. –

~~1.2.~~ Blue Crab – for the purposes of this section means the genus and species of crab known as Callinectes sapidus, either picked, peeled, or in the shell and any edible product thereof.

~~2.3.~~ Blue crabmeat – any cooked or processed edible substance, used or intended for use in whole or in part for human consumption, derived from the blue crab.

~~3.4.~~ Blue crabmeat Processing Establishment – any food establishment in which blue crabmeat is processed or otherwise prepared, packaged, and stored for human consumption.

~~4.5.~~ Crustacea = ~~is~~ that class of arthropod which includes, but is not limited to, crabs, lobsters and shrimp.

~~5.6.~~ HACCP (Hazard Analysis Critical Control Point) – a preventive food safety program used to protect the food supply against biological, chemical, and physical hazards.

~~6.7.~~ Potentially Hazardous Food – a perishable food capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

~~7.8.~~ Safe Temperatures – temperatures of forty-one degrees Fahrenheit (41⁰ F) or below and one hundred-forty degrees Fahrenheit (140⁰ F) or above as applied to blue crabmeat.

~~(d)4.~~ Requirements for handling of blue crab and blue crabmeat.

a. Backing and washing – Where operation is not carried on at a picking table, a unit of approved material as defined in 21 CFR 110 or 21 CFR 123 shall be provided. Spray nozzles used for rinsing waste out of backed blue crab shall be smooth and easily cleaned. Backed blue crab shall be washed only under running water and placed in containers of approved material as defined in 21 CFR 110 or 21 CFR 123. Containers of cooked, washed blue crab shall not be exposed to additional splash or other contamination.

f. Cooling – Refrigeration equipment used for blue crabmeat shall be maintained at forty-one degrees Fahrenheit (41⁰ F) or below. Sealed containers of picked blue crabmeat shall be placed in crushed ice immediately after weighing and sealing. Ice shall be from an approved source as defined in 5K-4.004(5)c., F.A.C and of satisfactory microbiological quality, kept free from contamination, and stored and handled in a sanitary manner. Ice crushers and ice receiving boxes shall be of impervious construction and shall be protected from foot traffic and flooding. No ice, water, or other foreign substance shall be allowed in direct contact with cooked blue crab or blue crabmeat during refrigeration or at any other time.

Specific Authority 500.09, 500.12(1)(d), 570.07(23) FS. Law Implemented 500.03, 500.04, 500.09, 500.10, 500.11, 500.12, 500.13 FS. History--New 9-8-68, Revised 3-1-72, Repromulgated 12-31-74, Formerly 5E-6.10, Amended 6-9-93, 9-12-94, Formerly 5E-6.010, Amended 8-8-95, 9-9-96,

DEPARTMENT OF REVENUE

RULE NOS.:	RULE TITLES:
12-25.0305	Scope of Rules
12-25.031	Definitions
12-25.033	Eligibility and Qualifications
12-25.035	Responsibility for Program Training, Certification Procedures, and Program Availability
12-25.037	Applying for Participation in the Program
12-25.038	Voluntary Disclosure of Liabilities for Other Taxes
12-25.039	Protest Procedure; Denial of a Request To Participate in the Certified Audit Program
12-25.041	Suspension of a Certified Audit In Progress
12-25.042	Withdrawal from the Certified Audit Program
12-25.045	A Certified Audit is Initiated by the Taxpayer But Not Completed
12-25.047	Development of Agreed Upon Procedures
12-25.048	Submission of the Certified Audit Report
12-25.049	Review of Certified Audit Reports
12-25.050	Protests

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., 1998 Supplement, published in the Vol. 25, No. 20, pp. 2421-2427, May 21, 1999, issue of the Florida Administrative Weekly.

- 12-25.0305 Scope of Rules.
- (1) through (2) No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New _____.

- 12-25.031 Definitions.
- (1) through (11) No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History—New _____.

- 12-25.033 Eligibility and Qualifications.

(1)(a) Any employee or owner of a qualified audit firm, responsible for planning, directing, conducting, reviewing, or reporting on a participating taxpayer's tax compliance in a certified audit must be a qualified practitioner.

(b) Any practitioner employed by the qualified audit firm ~~and~~ who performs audit analysis, makes auditing decisions on source documents, taxpayer data or sales transactions, or who performs agreed-upon procedures, except for the gathering of information for the planning work discussed in rule

12-25.047(1)(b)1., 2., 4., 5., 6., and 7., scheduling, or reconciling, must successfully complete a training course approved by the Department prior to their initial performance of the subject activities. The Department will approve the training, including instructional curriculum and materials, and testing, administered and delivered by the contract provider, if the provider meets all the conditions contained in pages 20 through 23 of the contract required to be established by both parties pursuant to Section 213.285(1), F.S., and Section 4 of Chapter 98-95, Laws of Florida. This contract is adopted and incorporated by reference. However, the Department ~~shall~~ ~~may~~ grant a waiver of this requirement for a specific certified audit in circumstances where a practitioner working on the subject audit can not complete his or her work due to a documented medical reason, a documented family emergency, or the practitioner has left the employment of the firm. The training course will, at a minimum, teach the basics of Florida Sales and Use tax law, and will include a required examination. The Department will be the final authority on the content of the training course and the nature, number, and type of questions on the examination. "Successfully complete" means the participant has met all the requirements for the course and achieved a scaled score of 70 percent ~~approved by the Department~~. Further, any practitioner performing the subject activities shall be supervised by a qualified practitioner. The subject qualified practitioner will be physically on-site where the activities are performed.

~~(e) To continue to be qualified to perform the subject activities, the practitioner must complete a continuing education program developed by the FICPA and approved by the Department. The continuing education program requirement will not exceed eight hours every two years.~~

- ~~(c)(d)~~ No change.
- ~~(d)(e)~~ No change.
- ~~(e)(f)~~ No change.

(2) To be eligible to provide a certified audit service to a taxpayer, the qualified audit firm must be independent with respect to that taxpayer, pursuant to the guidelines established by Florida Board of Accountancy Advisory Opinions issued on certified audit independence questions, which are adopted and incorporated by reference. The Department will determine if the circumstances and facts of the particular situation are materially the same as situations for which guidelines were previously issued. If the facts and circumstances are unique or if the qualified audit firm believes there are differences between their situation(s) and the situation(s) previously addressed by the Board that were the basis for the Department to deny participation, then the qualified audit firm can request an Advisory Opinion from the Board on that particular situation(s). The Department shall then decide based on the guidelines in the Board's response to that request and based on General Standard No. 2 (Independence), Generally Accepted Auditing Standards, which are adopted and incorporated by

reference. If the qualified audit firm does not agree with the Department's decision, it can request a Declaratory Statement from the Board, which determination will be final.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History–New _____.

12-25.035 Responsibility for Program Training, Certification Procedures, and Program Availability.

(1) No change.

(2) The Department will approve the training, including instructional curriculum and materials, and testing administered and provided by the FICPA, if the FICPA meets all the conditions contained in the contract which must be established by both parties pursuant to Section 213.285(1), F.S., and Section 4 of Chapter 98-95, Laws of Florida. The FICPA will submit to the Department, within thirty calendar days of the date the final certification test is administered to training participants, a list containing the name and business address of all participants who successfully complete the training and examination program.

(3) through (4) No change.

(5) Continuing professional education is required for practitioners and qualified practitioners as part of the training required pursuant to the directives in s. 213.285(1)(a), F.S., and Section 4 of Chapter 98-95, L.O.F. These laws require the training to be developed and delivered by the FICPA and approved by the Department pursuant to the contract signed by the Department and the FICPA. The Department shall approve the continuing professional education program if it meets all the criteria established in the contract.

(a) Practitioners must complete a continuing professional education program which will not exceed eight hours every two years.

(b) A To be recertified, a qualified practitioner must complete a continuing professional education program which developed by the FICPA and approved by the Department. The continuing education program requirement will not exceed sixteen hours every two years.

(6) through (8) No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History–New _____.

12-25.037 Applying for participation in the Program.

(1) The following public use form is employed by the Department of Revenue in its dealings with the public, and is hereby incorporated in these rules by reference. Copies of this form 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 a copy; or, 5) calling the Forms Request Line during

regular office hours at 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. When a qualified practitioner has a client who agrees to participate in the program, the qualified practitioner must complete a Request to Participate in the Certified Audit program (form DR-342000) ~~adopted and incorporated by reference~~, which includes a Power of Attorney (form DR-835), and submit the Request to Participate, including any required supporting information to the Department.

Form Number	Title	Effective Date
DR-342000	Request to Participate in the Certified Audit program (N. 8/99)	8/99

(2) through (9) No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History–New _____.

12-25.038 Voluntary Disclosure of Liabilities for Other Taxes.

(1) through (2) No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History–New _____.

12-25.039 Protest Procedure; Denial of a Request To Participate in the Certified Audit Program.

(1) through (3) No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History–New _____.

12-25.041 Suspension of a Certified Audit In Progress.

(1) Approval to participate will be suspended or revoked by the Department based on the following criteria: for good cause. Cause would include:

(a) Suspension:

1. The Florida Board of Accountancy suspends the firm license of the qualified audit firm. The taxpayer files for bankruptcy subsequent to approval of participation but prior to Department approval of the subject certified audit report.

2. ~~(b)~~ The Department initiates an investigation or is notified by another local, state or federal agency of an investigation for financial impropriety subsequent to approval of participation but prior to Department approval of the subject certified audit report.

(b) Revocation:

1. The taxpayer files for bankruptcy subsequent to approval of participation but prior to Department approval of the subject certified audit report.

2. The ~~Should the~~ result of the investigation discussed in subparagraph (a)2. of this subsection is be unfavorable to the taxpayer, participation approval will be withdrawn.

3. ~~(e)~~ The Florida Board of Accountancy revokes ~~or~~ suspends the firm license of the qualified audit firm.

(2) No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History–New _____.

12-25.042 Withdrawal from the Certified Audit Program.

(1) through (3) No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History–New _____.

12-25.045 A Certified Audit is Initiated by the Taxpayer ~~But but~~ Not Completed.

No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History–New _____.

12-25.047 Development of Agreed Upon Procedures.

(1)(a) Certified Audits conducted pursuant to the authority of s. 213.285, F.S., are attestation engagements that are conducted under Statements on Standards for Attestation Engagements #4. – Agreed Upon Procedures, which are adopted and incorporated by reference.

(b) Subsequent to the Department’s approval of the Request To Participate, and prior to the qualified practitioner submitting the Audit Plan, the qualified practitioner will perform required planning work. The planning work performed will include:

1. through 6. No change.

7. Performance of and reporting on steps AP.001 through AP.300 of the Standard Audit Program, which are adopted and incorporated by reference.

8. through 10. No change.

(2) through (5) No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History–New _____.

12-25.048 Submission of the Certified Audit Report.

The qualified practitioner will submit the certified audit report and required attachments to the Department for review and approval.

(1) through (4) No change.

(5) The Department is authorized to share any of the information discussed in this rule with any county which, pursuant to law, self-administers the ~~taxes tax~~ imposed by Sections 125.0104(3) and (10) or 125.0108(1), F.S.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented ch. 98-95, L.O.F., 213.285 FS. History–New _____.

12-25.049 Review of Certified Audit Reports.

(1) through (4) No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History–New _____.

12-25.050 Protests.

No change.

Specific Authority 213.06(1), 213.285(7) FS. Law Implemented Ch. 98-95, L.O.F., 213.285 FS. History–New _____.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER NO.: RULE CHAPTER TITLE:

14-12 Classification of Roads

RULE NO.: RULE TITLE:

14-12.021 Scenic Highways

CHANGE NOTICE

SUMMARY OF CHANGES: There are no changes to the actual rule except for the revision date for Appendix F, which is changed from “(Rev. 01/07/99)” to “(Rev. 07/01/99)”. However, there are changes to Appendix F, which is incorporated by reference under the rule. These changes are summarized as follows:

1. The definition of Archaeological Resources is revised to read:

“Archaeological Resources” are the physical evidence or remains of known historic or prehistoric human life, activity, or culture in Florida. Examples of archaeological resources are ~~For example,~~ significant ruins, artifacts, inscriptions, and structural and/or human remains ~~may all be considered archaeological resources.~~ These resources differ from historic resources in that they may have existed before written records were kept in an area.

2. The definition of Historical Resources is revised to read:

“Historical Resources” means distinctive physical elements in the landscape, either natural or manmade, that reflect the action of humans as they relate to past events, sites, or structures. These historical resources symbolize an important era in Florida history and portray a legacy of Florida that educates viewers while providing an appreciation of the past. Examples of historical resources are ~~Resources may include~~ buildings, Indian habitations, trails, engineering structures, settlement patterns, and landscapes.

3. The definition of Metropolitan Planning Organization is revised to read:

“Metropolitan Planning Organization” (MPO) means the forum for cooperative transportation decision making for the metropolitan planning area, ~~as defined by Federal Transportation Planning Regulation 23 C.F.R. 450.104. MPOs designated prior to the promulgation of this regulation remain in effect until redesignated in accordance with 23 C.F.R. 450.106 and nothing in this part is intended to require or encourage such redesignation.~~

4. The definition of National Scenic Byway is revised to read:

“National Scenic Byway” means a scenic highway which is designated by the federal government as satisfying the criteria for a National Scenic Byway ~~pursuant to Section 1047(f) of Title 23 U.S.C. and any federal regulation and guidelines.~~ These roadways offer drivers and passengers views of cultural,

historical, archeological, recreational, natural, or scenic resources and provide a relaxed recreation and educational experience.

5. The definition of Recreation Resources is revised to read:

“Recreation Resources” are those that provide either active or passive outdoor recreational activities directly dependent upon the natural or cultural elements of the landscape. Examples of recreation resources ~~These activities may~~ include boating, saltwater and freshwater fishing, hiking, canoeing, camping (RV/trailer and tent), biking, saltwater beach activities, wildlife viewing, horseback riding, driving, hunting, and picnicking.

6. Required Elements of a Florida Scenic Highway B.2.(c)(1) Archaeological Resources is revised to read:

(c) Archaeological Resources

(1) Listed or eligible for listing on the National Register of Historic Places ~~under Title 36 C.F.R., Part 800 (1966, as amended), which is incorporated herein by reference,~~ or designated to be of historical significance by a local government that has been certified under the guidelines adopted by the Division of Historical Resources of the Florida Department of State.

7. XV. Standard Exceptions and Signing Requirements A.2. is revised to read:

2. Signing of the designated scenic highway shall be as close to the termini as possible. Signing will be installed at no more than five mile intervals along the scenic highway. However, exceptions ~~are~~ can be made when required by based on frequency of intersections and directional needs to assist the traveling public.

Notice of rulemaking was published in Florida Administrative Weekly, Vol. 25, No. 15, dated April 16, 1999. The changes are in response to review and comments provided by the Joint Administrative Procedures Committee staff attorney.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER NO.: 14-46
 RULE CHAPTER TITLE: Railroads/Utilities Installation or Adjustment

RULE NO.: 14-46.001
 RULE TITLE: Utilities Installation or Adjustment

NOTICE OF CHANGE

SUMMARY OF CHANGES:

1. Rule Changes: Rule 14-46.001 was changed based upon review by the Joint Administrative Procedures Committee. Changes included the following:
 - a. In Sections (3)(a), (5), and (6): Remove the phrase “at no more than cost pursuant to Section 120.53(2)(a), Florida Statutes.”
 - b. In Section (3)(b), revised wording on the incorporation by reference statements to clarify where copies of the form are available.

c. In Section (5), the reference to 23 C.F.R., Part 645 is clarified.

The following is a revised draft of Rule 14-46.001, which includes the above listed changes:

14-46.001 Utilities Installation or Adjustment.

(1) Purpose. This policy is established to regulate the location and manner for installation and adjustment of utility facilities on any FDOT right-of-way, in the interest of safety and protection, utilization, and future development of these rights-of-way, with due consideration given to public service afforded by adequate and economical utility installations, and to provide procedures for the issuance of permits.

(2) Authorization by the FDOT Required. No person shall enter upon any right-of-way under the jurisdiction of the FDOT to construct, alter, operate, maintain, or relocate any utility installation without first being issued a permit to do so except as otherwise noted in the FDOT's Utility Accommodation Manual.

(3) Permits.

(a) The FDOT will issue permits for the construction, alteration, operation, relocation, and maintenance of utilities upon the right-of-way in conformity with the FDOT's Utility Accommodation Manual, ~~January 1999 June 1993~~ edition, FDOT Document No. 710-020-001-~~de~~, which is hereby incorporated by reference and made part of this rule, and which supersedes all previous editions. Copies of this document are available from the FDOT Maps and Publication Sales, 605 Suwannee Street, Mail Station 12, Tallahassee, Florida 32399-0450 ~~at no more than cost pursuant to Section 120.53(2)(a), Florida Statutes.~~

(b) The Utility Permit, FDOT Form 710-010-85, Rev. ~~01/99, is incorporated herein by reference 06/96 superseded Permit Form 592-03 listed in Section (3)(a) of the Utility Accommodation Manual, June 1993 edition, will be used in lieu of the superseded form listed in the manual.~~ Copies of FDOT Form 710-010-85, Rev. ~~01/99, are available 06/96 be~~ obtained from the State Utility Engineer at 605 Suwannee Street, Mail Station 32, Tallahassee, Florida 32399-0450, or the District Maintenance Engineer's Office in ~~at~~ each of the Department's districts.

(4) Reimbursement Conditions (Other than Interstate).

(a) The FDOT will not reimburse any utility for adjustment, relocation, or removal of existing utilities where the utility is located on public rights-of-way or other areas dedicated for public use.

(b) The FDOT will reimburse a utility for the relocation, adjustment, or removal of its facilities as a result of a FDOT construction project, where the utility's facilities are located on property in which the utility holds a compensable property interest.

(5) Reimbursement Conditions (Interstate). If relocation of utility facilities is required by construction of a project on the Federal-Aid Interstate System, and the cost of such project is

financed by the federal government ~~up to the extent of 90% under the Federal-Aid Highway Act, then in that event the~~ FDOT will reimburse the expense of utility relocation which qualifies for reimbursement under Section 337.403(1)(a), Florida Statutes, and is subject to the provisions of in accordance with 23 C.F.R., Part 645, which regulations are hereby incorporated by reference and made a part of these rules. Copies of these federal regulations are available from the FDOT Maps and Publication Sales, 605 Suwannee Street, Mail Station 12, Tallahassee, Florida 32399-0450 ~~at no more than cost pursuant to Section 120.53(2)(a), Florida Statutes.~~

(6) Calculation of State Cost Participation. When the utility is eligible for any reimbursement from the FDOT, state participation will be based on the cost of making the required change in the utility after deducting any resulting increase in the value of the new utility and any salvage value derived from the old utility, and otherwise as fixed by FDOT Procedure, Utility Relocation Costs, No. 710-010-030-b, effective May 19, 1989, which is hereby incorporated by reference and made a part of these rules. Copies of this document are available from the FDOT Maps and Publication Sales, 605 Suwannee Street, Mail Station 12, Tallahassee, Florida 32399-0450 ~~at no more than cost pursuant to Section 120.53(2)(a), Florida Statutes.~~

(7) Cost Development and Reimbursement. Reimbursement by the FDOT for any eligible utility work will be based upon an executed utility agreement between the FDOT and the utility, authorizing the work of adjusting or relocating utility facilities. Reimbursement for utility work involving Federal-Aid Participation will be subject to the provisions of 23 C.F.R., Part 645.

(8) Utilities Liaison. FDOT will coordinate its advance planning of highway projects with the affected utilities to facilitate the relocation of the utility.

Specific Authority 334.044(2) FS. Law Implemented 316.006, 334.044, 335.02, 337.401, 337.402, 337.403, 337.405, 339.05 FS. History—New 5-13-70, Amended 8-10-78, 7-22-82, Formerly 14-46.01, Amended 7-5-90, 6-8-93,_____.

2. Changes to the Comparison with Federal Regulations Statement Provided to the Joint Administrative Procedures Committee: The Statement is revised to read as follows:

“COMPARISON WITH FEDERAL RULES: The rule complies with 23 C.F.R., Part 645 and those federal rules and regulations referred to within the *Utility Accommodation Manual*. These federal regulations are, 49 C.F.R., Part 192 and 49 C.F.R., Part 195, which are incorporated within the *Utility Accommodation Manual* by reference.”

3. Changes to the *Utility Accommodation Manual* are summarized as follows:

a. Chapter 1, Section 1.4 – Paragraph 1 added and incorporation by reference eliminated.

b. Chapter 2 – Definition revisions for “Contractor,” “In-kind,” AND “Utility Facilities”, AND Add a definition for “Equal Material.”

c. Chapter 3, Section 3.2.1(Q) – Qualifying criteria were added.

d. Chapter 5, Section TABLE 5.1.2.4 – “Design Speed” changed to “Posted Speed,” a column for radii was added as well as a limitation on maximum radii at which an adjustment was required.

e. Chapter 5, Section 5.2.1 – Reference correction.

f. Chapter 5, Section 5.4.3.4 – PARAGRAPH 2 – The last sentence was eliminated.

g. Chapter 5, Section 5.4.5 – Added text to incorporate QPL process by reference.

h. Chapter 5, Section 5.4.5 – Subsections 5.4.5.1 and 5.4.5.2 were eliminated with subsequent renumbering.

i. Chapter 5, Section 5.4.5.4 – The appropriate ASTM Specifications A-123, A-153, and A-307 have been incorporated by reference.

j. Chapter 5, Section 5.4.6.1 – Text modified for clarification regarding reference.

k. Chapter 5, Section 5.6.2 – Added criteria for allowance of cutting pavement.

l. Chapter 6, Section 6.1 – Rewritten to include Statute language in deference to paraphrasing. Eliminated the last sentence, and “may” in the third. Also added criteria for FDOT approval.

m. Chapter 6, Section 6.1.8 – Addition of the word “Permittee” at the end of the sentence and change word “hailed” to “removed.”

n. Chapter 6, section 6.1.11 – Added criteria for method determination.

o. Chapter 6, Section 6.1.12 – Delete the word “acceptable” in the last sentence.

p. Chapter 6, section 6.1.13 – Incorporation by reference removed as they are mentioned for informational purposes only.

q. Chapter 7, Section 7.4, Paragraph 6 – Text revised to state criteria for determining an action.

r. Chapter 7, Section 7.4, Paragraph 7 – Revised to include example citations of other controlling agency provisions.

s. Chapter 9, Section 9.2(H) – Re-added text accidentally deleted in last edit process.

t. Chapter 10, Section 10.8 – Rewritten to state criteria and eliminate PSC reference. 2nd full paragraph – Last sentence has been struck. Par. 5- Clarified responsibility.

u. Chapter 10, Section 10.16 – Eliminated last sentence and clarified permit conditions.

v. Chapter 10, Subsection 10.17 – Clarified “standards” citation.

w. Chapter 13, Section 13.1 – Eliminated last sentence in last paragraph regarding “Escalation”.

x. Exhibit A – Added signature block for the State Roadway Design Engineer.

y. Exhibit C – “Permit” Page 3, Paragraph (L) – Paragraph (L) revised changing “may” to “will.”

- z. Exhibit C – Function (3). Established minimum criteria.
- aa. Exhibit C – Benefit Cost (E). Eliminate last part of the sentence.
- bb. Exhibit H – Added titles to top of page of the figures.
- cc. Exhibit J Permit, Page 2, Paragraph 13 – Last sentence deleted because of unnecessary duplication and added ITEMS 16 AND 17 (FLORIDA STATUTES).
- dd. Exhibit K References – Updated added statement of incorporation of all references.

Notice of rulemaking was published in Florida Administrative Weekly, Vol. 25, No. 2, dated January 15, 1999. The rulemaking process was tolled under the provisions of Section 120.54(3)6.e., Florida Statutes, pending the resolution of changes based upon review and comments provided by the Joint Administrative Procedures Committee staff attorney.

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:
33-3.0063 Inmate Substance Abuse Testing
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 25, No. 20, (May 21, 1999), issue of the Florida Administrative Weekly:

33-3.0063(2)(a)3. is changed as follows:

- 3. When for-cause testing is ordered, an incident report shall be prepared including:
 - a. Dates and times of reported drug-related events;
 - b. Rationale leading to the request for testing; and
 - c. ~~The drugs recommended for testing.~~

33-3.0063(3)(a)2. is changed as follows:

- 2. The chain of evidence form allows for any comments by the collector regarding any unusual observations, ~~any~~ failure by the inmate to cooperate with the collection process, and the unusual nature(e.g., discolored urine or urine containing foreign objects) of any specimen provided shall be noted.

33-3.0063(3)(d)3. is changed as follows:

- 3. Any specimens found to be positive upon initial testing shall be re-tested at the department testing facility that day with a fresh aliquot sample of the specimen prior to reporting test results. Specimens testing negative on the retest shall be reported as negative.

33-3.0063(3)(e) is changed as follows:

- 5. On-site testing facilities shall maintain a log of all substance abuse testing conducted. The log shall reflect the test purpose, date of testing, results and date of data entry.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: RULE TITLE:
40D-3.051 Exemptions
 NOTICE OF CHANGE

Notice if hereby given that the following change has been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., published in Vol. 25, No. 20, page 2523, May 28, 1999, issue of the Florida Administrative Weekly. 40D-3.051(2) shall now read as follows:

In emergency situations when compliance with the requirements of Part III of Chapter 373, F.S., or Chapter 40D-3, F.A.C., will result in undue hardship, including those situations when an unexpected problem is encountered during the construction, repair or abandonment of a well, the Executive Director, or the Executive Director’s designee, shall authorize an exemption, by telephone, from the conditions required by a permit or rule requirements for a well. A Well Completion Report documenting the exemption must be submitted to the District in writing within 30 days of completion.

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NO.: RULE TITLE:
64B18-14.006 Casting Feet
 NOTICE OF CHANGE

Notice is hereby given that the following change has been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 25, No. 10, of the March 12, 1999, issue of the Florida Administrative Weekly. The Board, at its meeting held on June 18, 1999, in Naples, Florida, reviewed written comments submitted by the staff of the Joint Administrative Procedures Committee, and determined that the word “not” had been inadvertently omitted and, accordingly, the rule should be changed. When changed, the rule shall read as follows:

“The practice of casting feet (making reproductions of feet or parts of feet), for the purpose of fabricating any orthopedic foot appliances (prosthetics) or molded shoes, and the making of such orthopedic foot appliances (prosthetics) or molded shoes from such casts is a violation of Chapter 461, Florida Statutes, when such orthopedic appliances or molded shoes or prosthetics or casts are made by persons not licensed to practice podiatric medicine in Florida, or a person not otherwise exempted from Chapter 461, F.S., and where such casts are made for or such appliances or shoes are applied for the correction of an abnormal ailment or orthopedic ailment, unless by prescription from a podiatric physician licensed in Florida.”

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

DEPARTMENT OF HEALTH

Division of Disease Control

RULE NOS.:	RULE TITLES:
64D-2.004	Testing Requirements
64D-2.006	Registration of HIV Testing Programs

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the above proposed rules published in the Florida Administrative Weekly, Vol. 25, No. 19, May 14, 1999. The changes were made in response to written comments received by the public and incorporated into the Public Hearing record and those received by the Florida Legislature Joint Administrative Procedures Committee.

64D-2.004(1) The proposed new language is amended to read: Information shall also be included on the fact that persons who test positive will be reported to the local county health department, that anonymous testing is available and the locations of anonymous testing sites.

64D-2.004(4)(a) Language that was proposed to be deleted will be reinserted.

64D-2.004(6) The proposed new language is amended to read: Any health care provider attending a pregnant woman for conditions related to her pregnancy shall counsel the woman on the potential benefits, potential risks and limitations of treatment to reduce the risk of transmission from infected women to their babies and offer HIV testing in accordance with s. 384.31, F.S.

64D-2.006(1)(b) For the purpose of this rule, an HIV testing program is a program which provides HIV testing services with the sole purpose of ~~either~~ identifying HIV infection infected persons, or providing HIV testing services as an adjunct to the provision of comprehensive, out patient care and treatment to HIV infected persons. This definition does not apply to include any health care provider who that performs or provides HIV testing services which are incidental to the primary diagnosis or care of a patient if the health care provider does not announce, solicit, display or advertise that they are conducting a testing program.

64D-2.006(7) Proposed new language has been withdrawn.

~~64D-2.006(11) Pursuant to s. 381.031, F.S., the department shall have the right to make inspections and investigations by any duly authorized officer or employee of the department as are necessary in order to respond to complaints or to determine compliance with the provisions of s. 381.004(5), F.S., and the rules adopted thereto.~~

~~64D-2.006(12) The department shall institute injunctive proceedings in a court of competent jurisdiction when violations of the provisions of s. 381.004(5), F.S., or any rules promulgated thereunder constitute an emergency affecting the immediate health, safety, and welfare of a person receiving services.~~

64D-2.006(10)(13)(11) Proposed changes remain, paragraph renumbered.

64D-2.006(11)(14)(12) Proposed changes remain, paragraph renumbered.

DEPARTMENT OF HEALTH

Division of Environmental Health and Statewide Programs

RULE NO.:	RULE TITLE:
64E-14.020	Citations

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made in the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 25, No. 15, April 16, 1999, of the Florida Administrative Weekly:

The changes were made in response to written comments received from the Florida Legislature Joint Administrative Procedures Committee.

The first sentence of subsection 64E-14.020(1) has been changed so that when adopted it will read: "Citations will be written on DH Form 4084, Feb 99 ~~June 98~~, herein incorporated by reference, and shall describe the particular nature of the violation, including a specific reference to the provisions of statute or rule allegedly violated and each day the violation exists constitutes a separate violation for which a citation may be issued. The citation shall be issued to the owner, supervisor, or operator of the migrant farmworker housing or to the responsible person for remedying the field sanitation facilities' violation including the crew leader, the harvesting company, or the property owner and when a responsible person cannot be identified, any of the above may be cited. The DH Form 4084 can be obtained from the Department of Health.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NO.:	RULE TITLE:
65A-4.213	Learnfare

CONTINUATION OF PROPOSED RULEMAKING

The Department of Children and Family Services announces a public hearing to which all persons are invited.

DATE AND TIME: July 26, 1999, 3:00 p.m.

PLACE: 1317 Winewood Boulevard, Building 3, Room 414, Tallahassee, Florida 32399-0700

PURPOSE: To discuss the department's intent to further amend administrative rule 65A-4.213, FAC, concerning the temporary cash assistance eligibility requirements of Learnfare.

This rule was previously scheduled for hearing on February 16, 1999 by notice of proposed rulemaking in the Florida Administrative Weekly, Vol. 25, No. 3, January 22, 1999. A notice of change was published in Vol. 25, No. 15, April 16, 1999, subsequent to a public hearing held on April 6,

1999. Another public hearing was held on June 11, 1999 resulting in decisions remaining that necessitated further discussion.

The department intends to further discuss amending verification of school attendance requirements in the proposed rule text and amending forms associated with Learnfare.

These are the only items proposed for discussion in this public hearing. As a result, no itemized agenda will be prepared.

Any person desiring more information about this hearing or special accommodations under the Americans with Disabilities Act should contact Audrey Mitchell, Program Administrator, Economic Self-Sufficiency Program, Building 3, Room 412D, 1317 Winnowed Boulevard, Tallahassee, Florida 32300-0700 or telephone (850)488-3090. If special accommodations are required, please make the contact at least 24 hours prior to the hearing.

FLORIDA HOUSING FINANCE CORPORATION

RULE NOS.:	RULE TITLES:
67-21.002	Definitions
67-21.003	Application and Selection Process for Loans
67-21.0035	Applicant Administrative Appeal Process
67-21.004	Selection Criteria and Guidelines for Selection of Developments
67-21.0045	Determination of Method of Bond Sale
67-21.005	Originators Selection of Qualified Lending Institutions as Credit Underwriters, or Servicers
67-21.006	Development Requirements
67-21.007	Fees
67-21.008	Terms and Conditions of Loans
67-21.009	Interest Rate on Mortgage Loans
67-21.010	Issuance of Revenue Bonds
67-21.011	No Discrimination
67-21.012	Advertisements
67-21.013	Private Placements of Multifamily Mortgage Revenue Bonds
67-21.014	Credit Underwriting Procedures
67-21.015	Use of Bonds with other Affordable Housing Finance Programs
67-21.016	Compliance Procedures
67-21.017	Transfer of Ownership
67-21.018	Refundings and Troubled Development Review
67-21.019	Issuance of Bonds for 501(c)(3)'s

NOTICE OF WITHDRAWAL

The proposed Rule section listed above published in Vol. 25, No. 25, of the Florida Administrative Weekly on June 25, 1999, are hereby withdrawn.

FLORIDA HOUSING FINANCE CORPORATION

RULE NOS.:	RULE TITLES:
67-39.002	Definitions
67-39.003	Feasibility Studies
67-39.004	Eligibility Criteria
67-39.005	Fees and Rates
67-39.006	Contractual Provisions
67-39.008	Reimbursable Costs
67-39.010	Program Documents
67-39.011	Guarantee Program
67-39.012	Guarantee Coverage
67-39.014	Guarantee Program Payments
67-39.015	Audit Requirement

NOTICE OF WITHDRAWAL

The proposed Rule sections listed above as published in Vol. 25, No. 25, of the Florida Administrative Weekly on June 25, 1999, are hereby withdrawn.

**Section IV
Emergency Rules**

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLE:	RULE NO.:
Sales of Clothing During the Period July 31 through August 8, 1999	12AER99-1

REASONS FOR CONCLUDING THAT THE PROCEDURE USED IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized promulgation of an emergency rule to administer the provisions of the Florida Residents' Tax Relief Act of 1999. Additionally, an emergency rule is the most expedient and appropriate means of notifying dealers and taxpayers of the Florida Residents' Tax Relief Act of 1999.

SUMMARY OF THE RULE: This emergency rule notifies the general public and retailers of the Florida Residents' Tax Relief Act of 1999 (Chapter 99-229, Laws of Florida) granting a nine day exemption from sales tax on the sales of clothing, and certain accessories, that have a sales price of \$100.00 or less. The nine day exemption begins at 12:01 a.m. on July 31, 1999, and expires at midnight on August 8, 1999. The exemption does not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), F.S., or within a public lodging establishment as defined in s. 509.013(4), F.S., or within an airport as defined in s. 330.27(2), F.S. The rule defines "clothing," "theme park or entertainment complex," "public lodging establishment," "airport," and "mail order sales"; describes the items that are included in the exemption; and explains how various transactions are to be handled for purposes of the exemption, including returns, refunds, exchanges, layaways, reporting requirements, documentation to be maintained, and merchant's license fees.