

Section I
Notices of Development of Proposed Rules
and Negotiated Rulemaking

DEPARTMENT OF LEGAL AFFAIRS

Division of Victim Services and Criminal Justice Programs

RULE TITLE: Claims
RULE NO.: 2A-2.002

PURPOSE AND EFFECT: The proposed rule development is intended to incorporate revised forms into the rule.

SUBJECT AREA TO BE ADDRESSED: The incorporation of revised forms into the rule.

SPECIFIC AUTHORITY: 960.045(1) FS.

LAW IMPLEMENTED: 960.065, 960.07, 960.13(1)(b) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., December 1, 1999

PLACE: Room 324, Collins Building, 107 West Gaines Street, Tallahassee, Florida 32302

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Jacquelyn Dupree, Chief, Bureau of Victim Compensation, Division of Victim Services and Criminal Justice Programs, PL-01, The Capitol, Tallahassee, Florida 32399-1050

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

2A-2.002 Claims.

Application and benefit payment criteria, limitations and procedures for victim assistance are provided in the publication entitled "Victim Compensation Assistance," BVC-P001 (January 2000), effective _____ (~~March 1999~~), effective 8-17-99, which is incorporated into these rules by reference. In addition, the following documents are incorporated into this rule by reference:

(1) BVC 100, entitled "Victim Compensation Claim Form," (rev. 11/99), effective _____ (~~6/97~~) (rev. 2/99), effective 9-24-97.

(2) BVC 100SF, entitled "Victim Compensation Claim Form" (Short Form), (10/99), effective _____.

(3)(2) BVC 102, entitled "Filing Time Explanation" (1/99), effective 8-17-99.

(4)(3) BVC 103, entitled "Reporting Time Explanation" (2/99), effective 8-17-99.

(5)(4) BVC 104, entitled "Non-Cooperation Explanation" (1/99), effective 8-17-99.

(6) BVC 105, entitled "Domestic Violence Relocation Certification" (10/99), effective _____.

(7)(5) BVC 211, entitled "Notice of Rights – Hearing Request," (3/99), effective 8-17-99.

(8)(6) BVC 405, entitled "Employment Report," (1/99), effective 8-17-99.

(9)(7) BVC 409, entitled "Treatment Statement," (2/99), effective 8-17-99.

(10)(8) BVC 410, entitled "Disability Statement," (1/99), effective 8-17-99.

(9) BVC 600, entitled "Property Loss Claim Form," (7/97) (rev 2/99), effective 9-24-97.

Specific Authority 960.045(1) FS. Law Implemented 960.065, 960.07, 960.13(1)(b) FS. History–New 1-1-92, Amended 11-1-92, 9-13-94, 1-8-96, 6-25-96, 10-1-96, 9-24-97, 8-17-99, _____.

DEPARTMENT OF LEGAL AFFAIRS

Division of Victim Services and Criminal Justice Programs

RULE TITLE: Application and Payment Procedures
RULE NO.: 2A-3.002

PURPOSE AND EFFECT: The proposed rule development is intended to incorporate a revised form into the rule.

SUBJECT AREA TO BE ADDRESSED: Incorporation of a revised form into the rule.

SPECIFIC AUTHORITY: 960.045(1) FS.

LAW IMPLEMENTED: 960.28 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., December 1, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, Florida 32302

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Jacquelyn Dupree, Chief, Bureau of Victim Compensation, Division of Victim Services and Criminal Justice Programs, PL-01, The Capitol, Tallahassee, Florida 32399-1050

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

2A-3.002 Application and Payment Procedures.

Application and payment procedures for sexual assault examinations are provided on the form entitled "Sexual Battery Claim Form," DVS-201, (Rev. 11/99), effective _____ (~~07/97~~), effective 9-24-97, which is incorporated in this rule by reference.

Specific Authority 960.045(1) FS. Law Implemented 960.28 FS. History–New 11-1-92, Amended 9-13-94, 9-26-95, 6-19-96, 9-24-97, _____.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE CHAPTER TITLE: Phytophagous Snails
 RULE TITLE: Infested and Regulated Areas
 PURPOSE AND EFFECT: The purpose of this rule amendment is to remove unnecessary restrictions on the State of South Carolina in shipping plant material to Florida.
 SUBJECT AREA TO BE ADDRESSED: South Carolina is removed as an infested area.
 SPECIFIC AUTHORITY: 570.07(23), 581.031(1),(5) FS.
 LAW IMPLEMENTED: 581.031(7),(8),(21), 581.101, 581.111 FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., November 30, 1999
 PLACE: Division of Plant Industry, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, FL 32608
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Constance C. Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, Florida 32608, Phone (352)372-3505

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5B-43.009 Infested and Regulated Areas.

(1) Infested areas. The following states in which plant-feeding snails, as described in 5B-43.003, are known to be established shall be known as infested areas.

- (a) Arizona
- (b) California
- (c) Hawaii
- (d) New Mexico
- (e) Oregon
- ~~(f) South Carolina~~
- ~~(f)(g) Texas~~
- ~~(g)(h) Washington~~

~~(h)(i)~~ Any other state where plant-feeding snails, as described in 5B-43.003, may be determined to be established.

(2) through (4) No change.

Specific Authority 570.07(23), 581.031(1),(5) FS. Law Implemented 581.031(7),(8),(21), 581.101, 581.111 FS. History--New 6-15-81, Amended 8-18-85, 2-10-87,_____.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE TITLE: Guidelines for Imposing Administrative Penalties
 RULE NO.: 5F-2.016
 PURPOSE AND EFFECT: The purpose of 5F-2.016 is to specify Departmental policies when imposing an administrative fine as described in s. 525.16, F.S. The effect is to have uniform imposition of administrative fines.
 SUBJECT AREA TO BE ADDRESSED: Proposed rule 5F-2.016 will specify guidelines when administrative fines are imposed pursuant to Chapter 525.16, F.S.
 SPECIFIC AUTHORITY: 525.14 FS.
 LAW IMPLEMENTED: 525.16 FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW.

TIME AND DATE: 10:00 a.m., Monday, November 29, 1999
 PLACE: Division of Standards' Conference Room, Suite E, Room 135, Doyle Conner Administration Building, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Eric Hamilton, Bureau Chief, Bureau of Petroleum Inspection, 3125 Conner Blvd., Bldg. #1, Tallahassee, FL 32399-1650, Phone (850)488-9740

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5F-2.016 Guidelines for Imposing Administrative Penalties.

(1) Any person who is shown to have willfully and intentionally violated any provision of Chapter 525, Florida Statutes, shall have a maximum administrative fine of \$5,000 levied per violation.

(2) Any person who commits a first violation of Chapter 525, Florida Statutes, within a three-year period that is not shown to have been willful or intentional shall be issued a warning letter.

(3) Any person who commits a second violation of Chapter 525, Florida Statutes, within a three-year period that is not shown to have been willful or intentional shall have a maximum administrative fine of \$1,000 levied per violation.

(4) Any person who commits three or more violations of Chapter 525, Florida Statutes, within a three-year period that are not shown to have been willful or intentional shall have a maximum administrative fine of \$5,000 levied per violation.

(5) Pursuant to Section 525.16(1)(a)(2), Florida Statutes, four factors will be considered when imposing an administrative fine on a second time or repeat offender for violations that are not shown to have been willful or intentional. The factors are:

- (a) The degree and extent of harm caused by the violation;
- (b) The cost of rectifying the damage;
- (c) The amount of money the violator benefitted from the noncompliance; and
- (d) The compliance record of the violator.

The administrative fine will be a sum of the assigned monetary amounts of these factors. These factors will be assigned monetary amounts in the following manner:

1. The degree of harm is determined by the severity and nature of the violation and the extent of harm will be determined by the amount of substandard product sold.

a. Severity and Nature of the Violation
Gasoline

Fine	\$100	\$250	\$500
Distillation: End Point, °F	450-475	476-500	>500
Distillation: 10, 50 & 90% evaporated temperature, °F		all violations	
Vapor Pressure, psi	April-October: >maximum but< 11.5	November-March: >13.5 April-October: >11.5	
Antiknock Index			>2.0 below displayed value
Sulfur			all violations
Gum			all violations
Alcohol/Oxygenates		>maximum but< 20%	>20%

Diesel, Kerosene and Fuel Oils

Fine	\$100	\$250	\$500
Flash Point, °F	diesel & fuel oils: 80-93. kerosene: 80-91	diesel, kerosene & fuel oils: 60-79	diesel, kerosene & fuel oils: <60
Distillation		diesel, kerosene & fuel oils: all violations	

b. Extent of Harm

Fine	\$250	\$750	\$1,500
# of gallons sold	0-500	501-1000	>1000

2. The cost of rectifying the damage is determined by the monetary value of repairs for equipment damaged by the substandard product. These damages must be related to a valid complaint filed with The Department.

Fine	\$100	\$250	\$500
\$value	<\$500	\$500-1000	>\$1000

3. Benefit to Violator

Fine	Revenue resulting from sale of substandard product.
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4. Compliance Record

Fine	\$100 per violation	\$250 per violation	\$500 per violation
# of violations subject to penalty	3rd previous year	2nd previous year	1st previous year

Specific Authority 525.14 FS. Law Implemented 525.16 FS. History—New

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Residential Construction Mitigation Program	9B-68
RULE TITLES:	RULE NOS.:
Residential Construction Mitigation Program	9B-68.001
Residential Construction Mitigation Program: Quality of Evaluation	9B-68.002
Residential Construction Mitigation Program: Retrofit Techniques	9B-68.003
Residential Construction Mitigation Program: Qualified Applicants	9B-68.004

PURPOSE AND EFFECT: The purpose of the proposed rule amendment to Rule Ch. 9B-68, Fla. Admin. Code is to reflect the change in eligibility and examination requirements for the Residential Construction Mitigation Program Inspector; updating the Wind Resistance Checklist version and incorporate it by reference; and revising home eligibility requirements to include all residents of Florida.

SUBJECT AREA TO BE ADDRESSED: Residential Construction Mitigation Program.

SPECIFIC AUTHORITY: 627.0629(9)(d) FS.

LAW IMPLEMENTED: 627.0629(9) FS.

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

TIME AND DATE: 8:00 a.m. – 10:00 a.m., December 6, 1999

PLACE: Kelly Training Center, Room 305, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida

Copies of the agenda for the rule development workshop may be obtained from: Traci Buzbee, Planning Manager, Long Term Redevelopment Section, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, telephone (850)922-5434.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Long Term Redevelopment Section is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Traci Buzbee, (850)922-5434. If you are hearing or speech impaired, please contact the Department by using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE: Traci Buzbee, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399, 850/922-5434

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

9B-68.001 Residential Construction Mitigation Program. In order to be eligible to be certified as a Residential Construction Mitigation Program (RCMP) Inspector ~~Wind Mitigation Inspector~~, for the Residential Construction Mitigation Program, an individual must be one of the following with an active license in good standing; a State Standard Certified Building Inspector, a State Certified or Registered Building, Residential or General Contractor, a Florida Registered Architect, or a Florida Professional Engineer. Eligible individuals must also complete the Department of Community Affairs' Residential Inspection Using the Wind Resistance Checklist Course ~~Wind Retrofitting Inspector Course~~ and pass the exam before being certified as an Inspector.

Specific Authority 627.0629(9)(d) FS. Law Implemented 627.0629(9) FS. History--New 1-11-98, Amended.

9B-68.002 Residential Construction Mitigation Program: Quality of Evaluation

Evaluations shall be conducted by a Certified Wind Inspector utilizing the Wind Resistance Checklist, version 2.1, 6/1/99, which is hereby incorporated by reference as Form No. 2.1, effective 6/1/99, version 1.1, 1/7/98. A copy of the Checklist which may be obtained from Office of Long Term Redevelopment the Department of Community Affairs, Division of Housing and Community Development 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100. The checklist ensures the quality of evaluations because it collects the appropriate data and allows an analysis of the whole house. ~~The checklist develops information about construction of the house including applicable code (governed by date of construction), building type, and structural features such as: windows, roof, fasteners, doors, coverings, and foundations.~~ Certified Wind Inspectors shall complete the Wind Resistance Checklist, supplying all information in accordance with the accompanying instructions.

Specific Authority 627.0629(9)(d) FS. Law Implemented 627.0629(9) FS. History--New 12-24-98, Amended.

9B-68.003 Residential Construction Mitigation Program: Retrofit Techniques.

(1) Information contained in the Wind Resistance Checklist along with the reasonably expected conditions resulting from extreme wind events shall be evaluated through the performance of a vulnerability-loss analysis. This analysis shall include simulated failures for reasonably expected hurricanes and extreme wind events. The analysis shall include a component-by-component load and resistance analysis, time specific and progressive failures, internal pressure and envelope failures. The vulnerability-loss analysis shall generate a component damage by storm result, including losses to structures, appurtenances and loss of use.

(2) The cumulative vulnerability-loss analysis shall form the basis for an analysis of options to reduce the predicted damages. Retrofit recommendations shall address wind resistance of residential structures and prevention of damage from hurricane force winds. Options to be considered shall include all reasonable, feasible, practicable and available methods of envelope protection, internal and external non-destructive upgrades and structural bracing. Each option shall include estimated cost information. Default values shall be substituted for missing or unknown information on structural construction or components. For each option and combination of options, the evaluation shall generate a benefit-cost analysis which shall indicate the ratio of reduced losses in future events to the estimated cost of implementing each option. This ratio shall assume a life of 15 years, an interest rate of 5% and an inflation rate of 2%. Future benefits shall be converted to net present value for comparison to retrofit cost. ~~Options with a ratio of 1.0 or greater shall be reported.~~ The evaluation shall generate one or more recommended retrofits for each evaluated structure, and information about each option's predicted loss reduction.

(3) Mitigation retrofit recommendations shall consider one or more of the following: (a) replacement of roof sheathing; (b) replacement of roof covering; (c) installation of window and door opening protection; (d) brace bottom chord gable end; (e) anchoring of wall or floor units; and (f) roof to wall to foundation connections.

Specific Authority 627.0629(9)(d) FS. Law Implemented 627.0629(9) FS. History--New 12-24-98, Amended.

9B-68.004 Residential Construction Mitigation Program: Qualified Applicants.

~~All residents in the State of Florida living in a site built single family dwelling are qualified to participate in the Residential Construction Mitigation Program (RCMP). In order to receive an inspection, the homeowner must hire a Certified RCMP Inspector. The Florida Windstorm Underwriting Association (FWUA) shall recommend areas of the state with the greatest wind risk to residential properties, which make up the pool of those initially eligible. Actual eligible residential structures shall be randomly selected to achieve a uniform distribution by age of the residential structure. Homes built after 1995 shall not be considered since these residences have been constructed under the provisions of the new South Florida Building Code or other recent code with wind protection provisions, and thus, the wind mitigation has been built into the construction. In order to ensure funds achieve positive results, those residential properties in areas identified by FWUA and the program which are insured through the FWUA wind pool created by section 627.531(2), Florida Statutes, and which can be cost effectively retrofitted, as determined by the cost benefit analysis, represent those eligible for the Residential Construction Mitigation Program.~~

Specific Authority 627.0629 FS. Law Implemented 627.0629 FS. History--New 12-24-98, Amended.

DEPARTMENT OF REVENUE

RULE TITLES:	RULE NOS.:
Definitions	12-11.002
Requests for Technical Assistance Advisements	12-11.003
Requests for Conference Discussion	12-11.004
Deletion of Private or Confidential Information	12-11.005
Processing Requests for, and Obtaining Copies of, Technical Assistance Advisements	12-11.006
Effect of Advisements	12-11.007
Requests by Representatives	12-11.008
Informal Technical Tax Statements	12-11.013

PURPOSE AND EFFECT: A) The proposed amendments to Rule 12-11.002, FAC., revise the definition of a Technical Assistance Advisement (TAA) to include a TAA issued to a taxpayer association; define "taxpayer association" to mean an organization authorized by its members to act on their behalf; and define a Tax Information Publication (TIP) to mean a written, informal statement issued by the Department of Revenue (DOR). B) The changes to Rule 12-11.003, FAC., allow DOR to issue a TAA to a taxpayer association; clarify that a TAA request must include copies of pertinent documents; identify the information which must accompany an association's request for a TAA, including a written description of all relevant facts, an explanation of the entire transaction, a discussion of any determination the association proposes, a statement from the association promising to distribute the TAA to all its members, and a statement allowing the TAA to be published; provide that an association's TAA request should be submitted to the DOR's Director of Industry and Intergovernmental Relations, who will determine if the issue is appropriate for DOR to issue a TAA; implement a 1998 legislative change authorizing DOR to issue a TAA at any time, if it deals with the sales and use tax exemption granted to general groceries or medical items; and, add a taxpayer association's request for a TAA within the existing TAA procedures. C) The proposed amendments to Rule 12-11.004, FAC., provide that a taxpayer association can request a conference with DOR regarding its request for a TAA. D) The suggested revisions to Rule 12-11.005, FAC., clarify that the requestor of a TAA is granted the opportunity to identify information that DOR cannot disclose pursuant to confidentiality concerns. E) The proposed revisions to Rule 12-11.006, FAC., explain how a taxpayer's association can check on the status of a TAA request that has been submitted to DOR; clarify that the fee imposed on requests for copies of previously-issued TAAs does not apply when someone accesses and prints a TAA from DOR's Internet website; provide that this copying fee does apply to requests for copies of supporting information, and states that the fee must be paid before the TAA or supporting information copies will be sent to the requestor by the Department. F) The changes to Rule

12-11.007, FAC., state that a TAA issued to a taxpayer association provides guidance to all members of the association who engage in the transaction discussed in the TAA; and, clarify that, if a member of the association decides to not follow the TAA, such member could be liable for the tax consequences of such a decision. G) The proposed amendments to Rule 12-11.008, FAC., add taxpayer association requests for TAA to the provisions governing how representatives of taxpayers can act on behalf of clients who need a TAA. H) The creation of Rule 12-11.013, FAC., discusses DOR's authority to issue informal technical tax statements known as Tax Information Publications (TIPs); explains that TIPs are meant to guide taxpayers and help them comply with tax laws and rules, promote uniform compliance with the tax laws, notify taxpayers about law changes or legal decisions, and explain to taxpayers the rights they are granted by statutes and rules; states that TIPs do not supersede or change any provision of tax law, Department rule, or other law; clarifies that TIPs are not considered rules pursuant to Chapter 120, F.S.; and, reminds taxpayers who rely on a TIP that they must be aware of subsequent law or rule changes that render a previously-issued TIP obsolete.

SUBJECT AREA TO BE ADDRESSED: These proposed rule amendments address the Department's statutory authority to issue written, binding statements called Technical Assistance Advisements (TAAs) to taxpayers who request them. These amendments also address DOR's issuance of written, informal technical tax statements called Tax Information Publications (TIPs).

SPECIFIC AUTHORITY: 213.06(1), 213.22(3) FS.

LAW IMPLEMENTED: 213.015(1), 213.22, 213.2201 FS.

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

TIME AND DATE: 10:00 a.m., December 2, 1999

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

Copies of the agenda for the rule development workshop may be obtained by contacting the person listed below.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: 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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12-11.002 Definitions.

(1) "Technical Assistance Advisements" (TAA) or "Advisements" are written statements issued to taxpayers or to industry or trade associations by the Department of Revenue, setting forth the Department's position on the tax consequences of a specific transaction or event under applicable statutes and rules.

(2) "Internal Technical Advisements" (ITA) are written statements issued to Department personnel, in response to a Request for Technical Assistance (RTA), which state the Department's position on the tax consequences of a specific transaction or event under applicable statutes and rules.

(3) No change.

(4) "Taxpayer" shall mean a person subject to any tax imposed under law by the Florida Statutes, ~~that which~~ tax is subject to administration by the Department of Revenue.

(5) through (7) No change.

(8) "Taxpayer Association" shall mean an organization that has been authorized by its members to represent the interests of the members.

(9) "Tax Information Publication" (TIP) shall mean a written, informal statement developed and issued by the Department.

Specific Authority ~~213.06(1),~~ 213.22(3) FS. Law Implemented 213.22 FS. History--New 5-27-82, Formerly 12-11.02, Amended 10-24-96, _____.

12-11.003 Requests for Technical Assistance Advisements.

(1) No change.

(2) Each written request for a technical assistance advisement (TAA) from a taxpayer or his or her representative related to the specific circumstances of an individual taxpayer must contain:

(a) No change.

(b) In addition, true copies of all contracts, wills, deeds, agreements, instruments, and other documents involved in the transaction ~~must should~~ be submitted with the request:

1. For prompt disposition, relevant facts reflected in documents submitted ~~must should~~ be included in the taxpayer's statement and not merely incorporated by reference, and;

2. ~~Must Should~~ be accompanied by an analysis of their bearing on the issue or issues, specifying the pertinent provisions.

(c) An explanation of an entire, integrated transaction when the request pertains to only a portion of that transaction ~~Where the request pertains to only one step of a larger integrated transaction, the facts, circumstances, etc., should be submitted with respect to the entire transaction.~~

(d) No change.

(3) Each written request for a technical assistance advisement from a taxpayer association or the association's representative must contain:

(a) A complete description of all relevant facts relating to the potential transaction(s).

(b) An explanation of an entire, integrated transaction when the request pertains to only a portion of that transaction.

(c) If the taxpayer association asserts a particular determination of the issues, an explanation of the grounds for the determination, and a statement of relevant authorities in support of the position asserted should be furnished. Even though the taxpayer association is urging no particular determination with regard to a proposed transaction, the association's views as to the tax consequences of the proposed action should be stated and a statement of relevant authorities to support such views should be furnished. In addition, the taxpayer association should, for prompt disposition, inform the Department of any legislation, court decisions, or regulations that the taxpayer association determines to be contrary to the position advanced. If the taxpayer association determines that there are no contrary authorities, a statement to this effect should be included in the advisement request.

(d) A statement from the taxpayer association agreeing to disseminate the TAA to all of its members and related interested parties.

(e) A statement waiving the provisions of s. 213.22 (2), F.S., to allow the TAA to be published.

(4) Upon receipt of a request from a taxpayer association for a TAA, the Department's Director of Industry and Intergovernmental Relations will determine whether the issue is of general applicability and is appropriate for the issuance of an industry-wide TAA.

(5)(3) An advisement request, other than a request regarding the sales and use tax exemptions granted to general groceries and medical items pursuant to s. 212.08(1) and (2), F.S., must also contain a statement whether, to the best of knowledge of the taxpayer or his or her representative or the taxpayer association or its representative, the identical issue is involved in a return of the taxpayer or a member of the taxpayer association, and, if so, whether:

(a) The taxpayer or a member of the taxpayer association is under audit,

(b) The issue is being considered by the Department,

(c) The issue has been examined and the statutory period for assessment or refund has expired,

(d) The issue is pending in litigation in a case involving the taxpayer, a member of the taxpayer association, or a person who is a party to the transaction, or

(e) The issue, or a substantially similar issue, has been ruled on by the Department for the taxpayer or predecessor of the taxpayer, or a member of the taxpayer association, and the substance of the prior ruling or advisement.

After a request is filed, but before an advisement is issued, if a taxpayer or his or her authorized representative or the taxpayer association or its representative becomes aware that an examination of the issue by the Department has commenced, the taxpayer or his or her representative or the taxpayer association or its representative shall so notify the Department in writing.

(6)(4) A request for an advisement must comply with the deletion requirements in Rule 12-11.005.

(7)(a)(5) A request for a technical assistance advisement by the Department from an individual taxpayer or his or her representative should be addressed to Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443.

(b) A request from a taxpayer association or its representative should be addressed to the Office of Industry and Intergovernmental Relations, Room 104, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida 32399-0100.

(8)(6) Any request for an advisement that does not comply with all the provisions of this paragraph will be acknowledged, and the requirements that have not been met will be pointed out. If a request for an advisement lacks essential information, the taxpayer or his or her representative, or the taxpayer association or its representative, will be advised that if the information is not forthcoming within 30 days, the request will be closed. If the information is received after the request is closed, the request will be reopened and treated as a new request as of the date of the receipt of the essential information.

(9)(7) When a taxpayer who is under audit or a taxpayer association that has a member who is under audit requests a Technical Assistance Advisement (TAA) on any tax being audited or a transaction or period being reviewed, other than a request regarding the sales and use tax exemptions granted to general groceries and medical items pursuant to s. 212.08(1) and (2), F.S., the taxpayer or the taxpayer association shall mail or hand-deliver to the authorized employee conducting the audit or review a copy of the TAA request at the same time the request is mailed to Technical Assistance and Dispute Resolution (TADR) or the Office of Industry and Intergovernmental Relations (I & IR) for a response. Upon receipt of the TAA request, the authorized employee will notify TADR or I & IR of his or her intent to provide any factual information, documents, arguments or authorities which he or she wants considered. The authorized employee shall have 10 working days from the date of the TAA request in which to forward any information to TADR or I & IR or to request additional time to submit information regarding the TAA request. The authorized employee shall not be obligated to suspend the audit or review pending issuance of the TAA. After issuance of a Notice of Proposed Assessment or billing, no TAA will be issued to a taxpayer or taxpayer association with respect to the tax liability reflected by the proposed

assessment or billing, other than a TAA request regarding the sales and use tax exemptions granted to general groceries and medical items pursuant to s. 212.08(1) and (2), F.S.

~~(10)(8)~~ No TAA will be issued to an individual a taxpayer who has received notification of the Department's intent to audit a specific tax, other than a TAA request regarding the sales and use tax exemptions granted to general groceries and medical items pursuant to s. 212.08(1) and (2), F.S., if an RTA by the authorized employee, with respect to the same taxpayer and issue, is pending. If the Department does not issue an ITA in this situation, the taxpayer may submit a request for a TAA.

Specific Authority 213.06(1), 213.22(3) FS. Law Implemented 213.22(4),(3) FS. History--New 5-27-82, Formerly 12-11.03, Amended 10-24-96, _____.

12-11.004 Requests for Conference Discussion.

(1) A taxpayer, or the taxpayer's his or her representative who, or a taxpayer association or its representative that, desires an oral discussion of the issue or issues involved should indicate such desire in writing when filing the request in order that the conference may be arranged at that stage of consideration when it will be most helpful.

(2) If a conference has been requested, the taxpayer or taxpayer association will be notified of the time and place of the conference. Unless specifically agreed to by the Department, all conferences will be held at the Department's Department offices in Tallahassee, Florida, or by telephone conference call if requested by the taxpayer or taxpayer association. A conference is normally scheduled only when the Department agrees determines that it will be helpful in deciding the case, or when an adverse decision is indicated.

Specific Authority 213.06(1), 213.22 (3) FS. Law Implemented 213.22 (4),(3) FS. History--New 5-27-82, Formerly 12-11.04, Amended _____.

12-11.005 Deletion of Private or Confidential Information.

(1) In order to assist the Department in making the deletions of private and confidential materials and privileged financial and commercial information from the text of advisements and supporting information provided by the requestor to the Department which are open to public inspection, there must accompany requests for advisements and the submission of supporting information either a statement of the deletions proposed by the person requesting the advisements, or a statement that no information other than names, addresses, and taxpayer identification numbers needs to need be deleted.

(2) through (5) No change.

Specific Authority 213.06(1), 213.22(3) FS. Law Implemented 213.22 (4),(3) FS. History--New 5-27-82, Formerly 12-11.05, Amended _____.

12-11.006 Processing Requests for, and Obtaining Copies of, Technical Assistance Advisements.

(1) No change.

(2) A taxpayer, or the taxpayer's authorized representative, or a taxpayer association or its representative, desiring to obtain information as to the status of the taxpayer's request may do so by contacting either the Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443 or the Director of Industry and Intergovernmental Relations at Room 104, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida 32399-0100, depending on where the request was directed originally.

(3)(a) An individual who accesses and prints a copy of a previously-issued TAA using the Department's Internet website does not have to submit the fee required by paragraph (b). The Department's Internet address is shown inside the brackets [http://www.state.fl.us/dor/].

(b) A request for a copy of a previously-issued TAA or supporting information should be mailed or faxed to Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443, FAX number (850)921-2983. An individual who mails or faxes a request for a paper copy of a previously-issued TAA or supporting information must first submit a check made payable to the Department of Revenue in an amount equal to 50 cents per page, with a minimum amount of \$5.00 for each TAA or supporting information document requested.

Specific Authority 213.06(1), 213.22(3) FS. Law Implemented 213.22(4) FS. History--New 5-27-82, Formerly 12-11.06, Amended 10-24-96, _____.

12-11.007 Effect of Advisements.

(1) A taxpayer may not rely on an advisement issued to another taxpayer, except that an advisement issued to a taxpayer association provides guidance to those taxpayers who are members of the taxpayer association for the particular transaction(s) discussed in the TAA. An advisement may be revoked or modified at any time by the Department in the administration of the taxing statutes. If an advisement is revoked or modified, the revocation or modification shall be prospectively only, and such revocation or modification shall not be applied retroactively against the taxpayer.

(2) An advisement, issued to a taxpayer or a taxpayer association, with respect to a particular transaction represents a holding of the Department on that transaction only. If the advisement is later found to be in error, or no longer in accord with the position of the Department, it will afford the taxpayer no protection with respect to a like transaction in the same or subsequent years.

(3) No change.

(4) As part of the determination of a taxpayer's liability, it is the responsibility of the Department to ascertain whether an advisement previously issued to the taxpayer or the taxpayer association has been properly applied. It should be determined whether the representations, upon which the advisement was based, reflected an accurate statement of the material facts and whether the transaction actually was carried out substantially as proposed.

(5) Members of a taxpayer association who choose not to follow the guidance provided in a TAA may be liable for the tax consequences of not adhering to the Department's position expressed in the TAA.

Specific Authority 213.06(1), 213.22(3) FS. Law Implemented 213.22 FS. History--New 5-27-82, Formerly 12-11.07, Amended _____.

12-11.008 Requests by Representatives.

(1) A request, by or for a taxpayer or a taxpayer association, must be signed by the taxpayer, an officer or director of the taxpayer association, or an ~~his or her~~ authorized representative of the taxpayer or the taxpayer association. If the request is signed by an authorized ~~a~~ representative of the taxpayer, he or she must either be:

(a) An attorney, who is a member in good standing of the Florida Bar or of the bar of the highest court of any state, possession, commonwealth, or the District of Columbia, and who files with the Department a written declaration that he or she is currently qualified as an attorney and he or she is authorized to represent the principal, or

(b) through (2) No change.

Specific Authority 213.06(1), 213.22(3) FS. Law Implemented 213.22(1),(2) FS. History--New 5-27-82, Formerly 12-11.08, Amended _____.

12-11.013 Informal Technical Tax Statements.

Pursuant to the provisions of ss. 213.015(1) and 213.2201, F.S., the Department is authorized to issue informal written technical statements called Tax Information Publications (TIPs).

(1) Tax Information Publications are intended to:

(a) Provide guidance to taxpayers, tax practitioners, and the public;

(b) Promote the uniform application of the tax laws;

(c) Inform taxpayers about the Department's response to changes in:

1. United States or Florida tax laws; or,

2. Court or Division of Administrative Hearings decisions that interpret tax laws;

(d) Explain to taxpayers their rights and responsibilities under the tax laws; and,

(e) Assist taxpayers in complying with the tax laws.

(2)(a) TIPs cannot supersede, alter, or otherwise change any provision of Florida law, Department rule, or any other source of law. They are not binding on the Department or on taxpayers.

(b) A TIP is not a rule under the provisions of Chapter 120, F.S.

(3)(a) If there is an inconsistency between a TIP and a statute, rule, or court decision, the statute, rule, or court decision controls.

(b) Any person relying on a TIP is required to consider the effects of later statute or rule changes, or court decisions, that render the TIP inapplicable. A taxpayer who relies on the

provision(s) contained in an inapplicable TIP cannot subsequently allege that he or she received inaccurate guidance from the Department.

Specific Authority 213.06(1) FS. Law Implemented 213.015(1), 213.2201 FS. History--New _____.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLE:

RULE NO.:

Specific Exemptions

12A-1.001

PURPOSE AND EFFECT: The proposed amendments to Rule 12A-1.001, FAC., implement s. 3, Chapter 99-238, L.O.F., which expanded the exemption contained in s. 212.08(7)(dd), F.S., to include the purchase or importation of works of art. The proposed amendments provide guidelines regarding the tax exemption provided to works of art purchased or imported into Florida for the purposes of being donated to, or being loaned to and made available for display by, an educational institution. The amendments provide a suggested format of the affidavit that is required to be provided by the purchaser, or the authorized agent, to the vendor of the art work. The proposed amendments also remove obsolete guidelines effective prior to this statutory change.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is to discuss the proposed amendments to the rule which implement the statutory exemption from sales and use tax provided for works, acquired exclusively for donation to educational institutions, as defined in s. 212.08(7)(o)2.d., F.S.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS. LAW IMPLEMENTED: 92.525, 212.02(10),(12), (16),(20),(21), 212.03, 212.031, 212.04, 212.05, 212.0515, 212.06(2),(9), 212.08(4),(5)(a),(e),(6),(7)(a),(b),(c),(d),(f),(g), (h),(i),(k),(l),(m),(n),(o),(p),(q),(r),(s),(u),(v),(x),(bb),(cc),(dd), (8), 212.085, 212.17, 212.18, 213.12(2), 213.37, 403.715 FS., s. 3, ch. 99-238, L.O.F.

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

TIME AND DATE: 10:00 a.m., December 1, 1999

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

Copies of the agenda for the rule development workshop may be obtained by contacting the person listed below.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing- or speech-impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP 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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-1.001 Specific Exemptions.

(1) through (2) No change.

(3)(a) through (3)(f)2. No change.

3.a. A "work of art," as defined in s. 212.08(7)(dd)8., F.S., is exempt from sales and use tax if the work of art is sold to or used by an educational institution, as defined in subparagraph 2., or if it is sold to or used by any person under all of the following conditions specified in sub-subparagraphs b. through i.:

b. The work of art must have been purchased in Florida or imported into Florida within six months from the date of purchase by any person exclusively for the purpose of being donated to, or being loaned to and made available for display by, an educational institution. A work of art is presumed to have been purchased in or imported into this state exclusively for loan to an educational institution if it is so loaned or placed in storage in preparation for such a loan within 90 days after purchase or importation, whichever is later. A work of art will not be deemed to be "in storage" for purposes of this subparagraph if it is displayed at any place other than an educational institution.

b.e. The purchaser or his authorized agent must: (1) complete an affidavit documenting entitlement to the exemption provided in s. 212.08(7)(dd), F.S., by stating that the purchaser has or will enter into a written loan agreement with an educational institution, which is or will be identified by its name and address, for a period of at least ten years; (2) present the affidavit to the seller of the work or works of art, and (3) forward a copy of the affidavit to the Department of Revenue when it is presented to the vendor. A purchaser may authorize his or her agent to execute such affidavit by a documented Power of Attorney filed with the Department. The Department prescribes Form DR-835, Power of Attorney (incorporated by reference in Rule 12A-1.097, F.A.C.), as the form to be used for such purposes.

c.d. The following is a suggested format of the affidavit to be provided by the purchaser or the his authorized agent to the vendor of the work of art:

AFFIDAVIT FOR EXEMPTION OF A WORK OF ART TO BE DONATED SOLD TO OR LOANED TO AN EDUCATIONAL INSTITUTION STATE OF FLORIDA COUNTY OF _____

Personally appears the below named affiant, who being duly sworn, deposes and says:

1. I claim exemption under s. 212.08(7)(dd), F.S., from Florida sales and use tax on the work(s) or works of art, described below, purchased in Florida or imported into Florida exclusively for the purpose of being (check one):

a. _____ donated to _____, an educational institution as defined in s. 212.08(7)(o)2.d., F.S.

b. _____ loaned to and made available for display for a period of at least 10 years to _____, an educational institution as defined in s. 212.08(7)(o)2.d., F.S.

2. If a donation, title to the work(s) of art is being or will be transferred to the educational institution, and at the time of transfer, I will submit to the Department an affidavit evidencing the transfer of title.

3. If a loan:

a. The work(s) of art will be loaned to the educational institution or placed in storage in preparation for loan within 90 days after it was purchased in or imported into Florida. If placed in storage, it will not be displayed until such time as it is delivered to the educational institution.

b.2. I have entered into a written agreement with the educational institution providing for a loan of the work(s) of art and making the work(s) of art available to the educational institution for display for a term of not less than 10 years, with the educational institution designated below, or will do so before the transfer of possession of the work(s) of art to the educational institution occurs. A copy of the loan agreement will be provided to the Florida Department of Revenue at the time that the agreement is executed.

c.3. I understand that the exemption provided in s. 212.08(7)(dd), F.S., is allowed during the period of time in which the work(s) or works of art, as designated below, is in the possession of the educational institution designated below, and:

d.4. I understand that tax based upon the sales price as stated below will shall become due and payable at the time the provisions of s. 212.08(7)(dd), F.S., are no longer met, and the statute of limitations as provided in s. 95.091, F.S., will shall begin to run at that time. However, if I donate the work(s) of art to an educational institution after the loan ceases, no tax will be due.

5. The work or works of art as designated below will be loaned to the educational institution designated below or placed in storage in preparation for loan within 90 days after it was purchased in or imported into Florida. If placed in storage, it will not be displayed until such time as it is delivered to the educational institution designated below.

4.6. A signed copy of this affidavit is being has been forwarded to the Florida Department of Revenue at the time the original is given to of forwarding to the seller of the work(s) or works of art designated below of another signed copy of this affidavit.

Name of Purchaser _____
Purchaser's Permanent Address _____ (Street)
_____ (City) _____ (State)
Name of Seller _____
Seller's Permanent Address _____ (Street)
_____ (City) _____ (State)
DESCRIPTION OF WORK(S) OF ART

Sales Price _____ Date of Sale _____
Name of Educational Institution _____
Institution's Address _____ (Street)
_____ (City) _____ (State)
Educational Institution's Florida Consumer's Certificate of Exemption Number _____

() I have entered into an agreement with the educational institution designated above.
() The work of art is in storage and I have not entered into a loan agreement with an educational institution. However, I will notify the Florida Department of Revenue at such time that I enter into a loan agreement with an educational institution and provide the Department a copy of the loan agreement, the date on which the loan agreement was entered into, the name of the educational institution, the institution's address, and the educational institution's Florida Consumer's Certificate of Exemption Number.

Under the penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief.

(Signature of Purchaser or Authorized Agent)
Sworn to and
subscribed before me
this _____ day of
_____ (Month), 19 _____ (Year).

Notary Public, State of Florida
My commission expires: _____

NOTARY SEAL
Personally known ()
Produced Identification () Type: _____
Original to be retained by the seller and made part of the seller's records
1st Copy to be submitted to the Florida Department of Revenue, Compliance Enforcement, Enforcement Operations, P. O. Box 6417, Tallahassee, Florida 32314-6417
2nd copy: Purchaser's copy

d. The following is a suggested format of an affidavit of transfer of title to be provided by the purchaser or the authorized agent to the educational institution, as defined in s. 212.08(7)(o)2.d., F.S., upon donation of a work of art to that institution:

AFFIDAVIT TRANSFERRING TITLE TO A WORK OF ART TO AN EDUCATIONAL INSTITUTION

STATE OF FLORIDA
COUNTY OF _____
Personally appears the below named affiant, who being duly sworn, deposes and says:

1. I claim exemption under s. 212.08(7)(dd), F.S., from Florida sales and use tax on the work(s) of art described below that was purchased in Florida or imported into Florida for the exclusive purpose of being donated to _____, an educational institution as defined in s. 212.08(7)(o)2.d., F.S. A copy of the affidavit provided to the vendor of the work(s) of art at the time of purchase is attached.

2. Title to the work(s) of art has been, or is being, transferred to the educational institution, effective _____ (date; no later than the date of this affidavit). Copies of any other documents evidencing the transfer of title to the educational institution are attached to this affidavit and are being forwarded to the Florida Department of Revenue with the affidavit.

3. A signed copy of this affidavit is being forwarded to the Florida Department of Revenue at the time the original is given to the educational institution.

Name of Transferor _____
Transferor's Permanent Address _____ (Street)
_____ (City) _____ (State)

DESCRIPTION OF WORK(S) OF ART

Date Purchased _____
Name and Address of Person from Whom Purchased _____
Name of Educational Institution _____
Institution's Address _____ (Street)
_____ (City) _____ (State)
Educational Institution's Florida Consumer's Certificate of Exemption Number _____

Under the penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true to the best of my knowledge and belief.

(Signature of Transferor)
Sworn to and
subscribed before me
this _____ day of

_____(Month), _____(Year).

Notary Public, State of Florida

My commission expires: _____

NOTARY SEAL

Personally known _____ ()

Produced identification () Type: _____

Original to be retained by the educational institution and made part of that institution's records

1st Copy to be submitted to the Florida Department of Revenue, Compliance Enforcement, Enforcement Operations, P. O. Box 6417, Tallahassee, Florida 32314-6417

2nd copy: Donor's copy

e. ~~The exemption of the purchaser or owner from sales and use tax for the loan of a work of art applies only for the period during which the work of art is in the possession of the educational institution or is in storage before transfer of possession to the educational institution.~~ The exemption provided to the purchaser of a work of art loaned to an educational institution is not terminated if the educational institution, which entered into a loan agreement with the purchaser of the work of art, loans the a work of art which is exempt under this subparagraph to another educational institution(s) and the physical custody of such work of art is returned to the lending educational institution at the termination of the loan agreement(s). Any educational institution which transfers possession of a work of art that is exempt under this subparagraph to other educational institutions is required to notify the Department within 60 days of such transfers. The notification must shall include a description of the work of art, the name and address of the purchaser who loaned it, the names and addresses of each of the educational institutions receiving the work of art for display, and the time periods that the work of art will be displayed at each identified educational institution. ~~Tax is due to the Department from the owner when the work of art loaned to an educational institution ceases to be so possessed or held, based on the cost price paid by the owner. The statute of limitations provided in s. 95.901, F.S., shall begin to run at the time the work of art is no longer so possessed or held.~~

f. Any educational institution in this state that has received from a purchaser a work of art which is exempt under this subparagraph is required to notify the Department within 60 days that it has received the work of art. The notification to the Department must shall include a description of the work of art, the name and address of the purchaser who loaned it, and the date on which the transfer of possession occurred.

g. Any educational institution which displays a work of art received on loan that is exempt under s. 212.08(7)(dd), F.S., ~~this subparagraph~~ is required to maintain any written agreements, notifications, affidavits, and any other documentation which substantiates the educational institution's right to display the work of art until tax imposed by Chapter

212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S., and such documentation shall be made available to the Department upon request.

h. Any educational institution that transfers from its possession a work of art received on loan that is exempt under s. 212.08(7)(dd), F.S., ~~this subparagraph~~ is required to notify the Department within 60 days after the transfer, except for transfers which do not terminate the exemption provided by s. 212.08(7)(dd), F.S., ~~in this subparagraph~~ for purposes such as storage, repairs, conservation and restoration, authentication, insurance examination, valuation, appraisal, research, photography and reproduction, or fumigation during which the work of art is not displayed and the educational institution maintains documentation to substantiate that such transfers do not constitute a transfer of possession for purposes of display of such work of art. The notification to the Department must shall include a description of the work of art, the name and address of the purchaser who loaned it, the name and address of to whom ~~which~~ the work of art is transferred, and the date on which the transfer of possession occurred.

~~i. For purposes of the exemption described in this subparagraph, the term "work of art" includes pictorial representations, sculpture, jewelry, antiques, stamp collections and coin collections, and other tangible personal property, the value of which is attributable predominantly to its artistic, historical, political, cultural, or social importance.~~

~~j. The exemption described by this subparagraph applies to any taxes that remain open to assessment or contest on July 1, 1992.~~

~~k. Documents and notifications, as required in this subparagraph to be provided to the Department, should shall be mailed to the following address:~~

Florida Department of Revenue
Compliance Enforcement
Enforcement Operations
P. O. Box 6417
Tallahassee, Florida 32314-6417

(g) through (t) No change.

(4) through (21) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 92.525, 212.02(10),(12),(16),(20),(21), 212.03, 212.031, 212.04, 212.05, 212.0515, 212.06(2),(9),212.08(4),(5)(a),(e),(6),(7)(a),(b),(c),(d),(f),(g),(h),(i),(k),(l),(m),(n),(o),(p),(q),(r),(s),(u),(v),(x),(bb),(cc),(dd),(8), 212.085, 212.17, 212.18, 213.12(2), 213.37, 403.715 FS. S. 3, Ch. 99-238, L.O.F. History-Revised 1-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, Amended 7-19-72, 12-11-74, 5-27-75, 10-21-75, 9-7-78, 9-28-78, 10-18-78, 9-16-79, 2-3-80, 6-3-80, 7-7-80, 10-29-81, 12-3-81, 12-31-81, 7-20-82, 11-15-82, 10-13-83, 4-12-84, Formerly 12A-1.01, Amended 7-9-86, 1-2-89, 12-1-89, 7-7-92, 9-14-93, 5-18-94, 12-13-94, 3-20-96,_____.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE TITLES:	RULE NOS:
Imposition of the Gross Receipts Tax Administration	12B-6.001
Registration	12B-6.002
Rate of Tax	12B-6.0021
Sales for Resale; Resale Certificates	12B-6.003
Payment of Tax; Reports; Public Use Forms	12B-6.004
Collection and Distribution	12B-6.005
Assessment and Collection	12B-6.006
Interest	12B-6.007
	12B-6.008

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule Chapter 12B-6, FAC., is to remove from the administrative code obsolete language and language that restates the statutory provisions, as mandated by s. 120.74, F.S., and to change the title of the rule chapter to "Gross Receipts Tax."

The proposed repeal of Rules 12B-6.002 (Administration), 12B-6.003 (Rate of Tax), and 12B-6.007 (Assessment and Collection), FAC., will eliminate unnecessary rules that restate statutory provisions regarding the administration of the gross receipts tax, the statutory gross receipts tax rate, and the imposition of penalties due for failure to timely pay the gross receipts tax. The proposed repeal of Rule 12B-6.006 (Collection and Distribution), FAC., will eliminate an unnecessary recitation of the constitutional provision requiring that all gross receipts tax collections be deposited into the Public Education Capital Outlay and Debt Service Trust Fund. The proposed amendments to Rule 12B-6.001, FAC., change the title to "Imposition of The Gross Receipts Tax," and provide current guidelines for when gross receipts from the sale of telecommunication services and the sale of electricity are excluded from the tax imposed on gross receipts from utility services. The proposed amendments eliminate the obsolete guidelines and the unnecessary recitation of the statute regarding when receipts from utility services are excluded from the tax imposed on gross receipts.

The proposed amendments to Rule 12B-6.0021, FAC., Registration, will provide the public with notice regarding the forms used by the Department to register taxpayers for purposes of the gross receipts tax.

The proposed amendments to Rule 12B-6.004, FAC., change the title to "Sales for Resale; Resale Certificates," provide guidelines for when utility services may be purchased tax exempt for the purposes of resale, and provided a suggested format of a Resale Certificate to be issued by the purchaser to the utility provide when purchasing utility services for resale.

The proposed amendments to Rule 12B-6.005, FAC., change the title to "Payment of Tax; Reports; Public Use Forms" provide guidelines regarding the payment of the gross receipts tax and the filing of reports with the Department; and incorporate by reference the public use forms used by the

Department in the administration of the gross receipts tax that are required to be certified under the provisions of s. 120.54, FAC.

SUBJECT AREA TO BE ADDRESSED: The subject of this rule development workshop is the proposed removal of unnecessary and obsolete provisions regarding the gross receipts tax from Rule Chapter 12B-6, FAC., Gross Receipts Tax.

SPECIFIC AUTHORITY: 203.01, 203.02, 213.06(1) FS.

LAW IMPLEMENTED: 203.01, 203.011, 203.012, 203.013, 203.03, 203.06, 203.07, 203.60, 203.61, 203.62, 203.63, 213.05 FS., Art. XII, Section 9, Subsection (2), Constitution of Florida (1968).

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

TIME AND DATE: 10:00 a.m., December 2, 1999

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

Copies of the agenda for the rule development workshop may be obtained from 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: Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting: Jamie Phillips, (850)488-0717. If you are hearing or speech impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT 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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12B-6.001 Imposition of the Gross Receipts Tax.

(1)(a) ~~Gross Receipts, Generally.~~ A tax is imposed on every person receiving payment for any utility service at the rate of 2.5 percent on the total amount of gross receipts derived from business done within this state or between points within this state. Gross receipts means total payments received either in money, goods, services or other valuable consideration by every person ~~(including, but not limited to, municipal corporations, public service corporations and private electric utilities)~~ for electricity for light, heat, or power; for natural or manufactured gas for light, heat, or power; or for telecommunication services as defined or described in Chapter 203, F.S., ~~as amended, including, but not limited to, local telephone service, toll telephone service, telegram and~~

~~telegraph service, teletypewriter or computer exchange service, private communication service, cellular mobile radio, pagers, beepers, any mobile or portable one way or two way communication, two way television, and any person who operates his own telecommunication system for his own use.~~

~~(2)(b) Gross receipts for purposes of this rule shall not include:~~

~~(a)1. Receipts of any person derived from the sale of natural gas to a public or private utility, including municipal corporations and rural electric cooperative associations, either for resale or for use as fuel in the generation of electricity or for resale as provided in Rule 12B-6.004, F.A.C. The purchaser will be liable for tax due on natural gas that is not resold or used as fuel in the generation of electricity.;~~

~~2. Receipts from the The sale of electricity to a public or private utility, including a municipal corporation or rural electric cooperative association, for resale within the state as provided in Rule 12B-6.004, F.A.C., or as part of an electrical interchange agreement or contract between such utilities for the purpose of transferring more economically generated power or the sale of telecommunication services for resale of telecommunication services wholly or partially within this state; provided the person deriving gross receipts from such sale demonstrates that a resale in fact occurred and complies with the provisions of s. 203.01(3)(c), F.S. The purchaser will be liable for tax due on electricity that is not resold within this State.~~

~~3.a. Receipts from the sale of electricity to a public or private utility, including a municipal corporation or rural electric cooperative association, as part of an electrical interchange agreement or contract between such utilities for the purpose of transferring more economically generated power. The utility is required to maintain a copy of the agreement or contract in its books and records until the tax imposed under Chapter 203, F.S., may no longer be determined and assessed under s. 95.091, F.S., but the utility is not required to obtain a resale certificate.~~

~~b. The loss of electricity resulting from the generation, transmission, or distribution of electricity, including line losses, generation losses, and any other losses for which no receipts or repayments are received by the seller are not subject to the tax.~~

~~4. Receipts from sales or leases of telecommunication services for use in the conduct of a telecommunication service for hire or for resale as provided in Rule 12B-6.004, F.A.C. The purchaser will be liable for tax due on telecommunication services that are not resold or that are not used in conducting a telecommunication service for hire.~~

~~(b)1.(e) Receipts from Gross receipts for telecommunication services as provided in s. 203.012, F.S. do not include:~~

~~1. Charges for customer premises equipment, including equipment leased or rented by the customer from any source;~~

~~2. Charges made to the public for commercial or cable television, unless it is used for two way communication. When two way communication services are separately billed, only the charges made for the two way communication service will be subject to the gross receipts tax;~~

~~3.a. Charges made by hotels and motels which are required under the provisions of s. 212.03, F.S., to collect transient rentals tax from tenants and lessees, for local telephone service or toll telephone service when such charges occur incidental to the right of occupancy;~~

~~2.b. Charges to customers by hotels and motels and other similar business establishments that are required under the provisions of s. 212.03, F.S., to collect transient rentals tax from tenants and lessees for the use or access to telecommunication service are not considered incidental to the right of occupancy when such charges are separately stated, itemized, or described on the bill, invoice, or other tangible evidence of the sale of the service and are subject to tax.~~

~~4. Connection and disconnection charges, move or change charges, suspension of service charges, and service order, number change, and restoration charges;~~

~~5. Any tax collected from customers which has been separately stated as Florida gross receipts tax on the total amount of any bill, invoice, or other tangible evidence of the provision of taxable telecommunication services; or~~

~~6. Charges for the sale or lease of equipment by providers of cellular mobile telephone or telecommunication service, specialized mobile radio service, and pager and paging services provided that the amount for sale or lease of the equipment is separately stated, itemized or described on the bill, invoice, or other tangible evidence of the sale or lease of the equipment.~~

~~7. Charges for the maintenance or repair of customer premises equipment, whether owned or leased by the customer, provided that the amount of such charges are separately stated, itemized or described on the bill, invoice, or other tangible evidence of the maintenance or repair service.~~

~~(2) Liability for Tax. The tax is levied upon the person selling or providing the taxable item or service as enumerated in subsection (1) and may not be passed on to the consumer as a direct consumer's tax provided, however, in the case of telecommunications service the tax may be wholly or partially separately stated at the option of the vendor. When separately stated, every person, including but not limited to all governmental units, charitable, and religious organizations, is liable for payment of the tax to the vendor. The gross receipts tax is a tax on the privilege of doing business and is an item of cost to the seller or vendor. The vendor remains fully and completely liable for the tax even though the tax is separately stated.~~

Specific Authority 203.01(3)(c), 213.06(1) FS. Law Implemented 203.01, 203.012, 203.013, 203.60, 203.61, 203.62, 203.63 FS. History—New 11-13-78, Amended 6-5-85, Formerly 12B-6.01, Amended 10-4-89, 1-8-90, _____.

12B-6.002 Administration.

~~The administration of Chapter 203, Florida Statutes, is vested in the Florida Department of Revenue, herein referred to as the Department, which shall prescribe suitable rules and regulations for the enforcement of the provisions thereof.~~

~~The Department may enter the premises of any taxpayer during normal working hours and examine or cause to be examined by any agent or representative designated by it for that purpose, any records, books, papers, and accounts bearing upon the amount of taxes payable, and to secure other information directly or indirectly relevant to the enforcement of Chapter 203, Florida Statutes.~~

~~Specific Authority 203.02, 213.06(1) FS. Law Implemented 213.05 FS. History—New 11-13-78, Formerly 12B-6.02, Repealed.~~

12B-6.0021 Registration.

~~(4) Prior to engaging in the business of providing or selling utility the things or services as defined included in Chapter 203, F.S., as amended, every person is required to register shall become registered with the Department of Revenue this department by completing Form DR-1GR, Registration Application for Gross Receipts Tax for Utility Services, or Form DR-1, Application to Collect Tax in Florida. These forms are incorporated by reference in Rule 12B-6.005, F.A.C. Those businesses providing or selling those things or services prior to the effective date of this rule shall register with this department on or before May 31, 1985 by completing Form DR-1GR.~~

~~(2) Form DR-1GR, Application for Certificate of Registration Gross Receipts Tax, effective April 1, 1985, is hereby adopted by reference. This form is available without cost, upon written request directed to the Department of Revenue, Supply Room, Room 44, Carlton Building, Tallahassee, Florida 32301-8002.~~

~~Specific Authority 203.01, 213.06(1) FS. Law Implemented 203.01 FS. History—New 6-5-85, Formerly 12B-6.021, Amended.~~

12B-6.003 Rate of Tax.

~~Gross Receipts. The rate of tax shall be 1.5%.~~

~~Specific Authority 213.06(1) FS. Law Implemented 203.01 FS. History—New 11-13-78, Formerly 12B-6.03, Amended 10-4-89, Repealed.~~

12B-6.004 Sales for Resale; Resale Certificates Exemptions.

~~(1) Liquefied Petroleum Gas. Tax is not required on a product which was liquid when sold, but was transformed into gas and used for fuel for cooking when released from container. (Lee v. Wood, 126 Fla. 104; 170 So. 433 (1936).)~~

~~(2) Exempt Sales.~~

~~(1)(a) Every person who receives payment for utility services purchased for the purposes of resale is required to obtain a valid resale certificate, as provided in subsection (2) of this rule, from the purchaser. Any person who fails to obtain a valid resale certificate from the purchaser will be liable for the~~

tax. Resale certificates are required to be maintained by the utility provider in its books and records until tax imposed under Chapter 203, F.S., may no longer be determined and assessed under s. 95.091, F.S. All receipts derived from the sale of any of the things or services specified in Chapter 203, F.S. shall be taxable unless specifically exempt. The exempt status of the gross receipt must be established by the vendor and the tax shall be paid by such vendor unless a valid resale certificate has been received from the vendee. However, a vendee's failure to register or to provide a valid resale certificate shall not negate the vendee's liability for the tax, in which event either the vendor or vendee shall be liable for the tax.

~~(b) Any taxable thing or service specified in Chapter 203, F.S., that is purchased for resale where a valid resale certificate has been supplied to the vendor and not resold within this state shall be deemed taxable to the vendee based on the purchased price of the thing or service not resold except:~~

~~1. Natural gas sold to a public or private utility either for resale or for use as fuel in the generation of electricity shall be exempt. The vendee shall be liable for the tax on any portion not resold or used as a fuel in the generation of electricity.~~

~~2. Electricity sold as part of an electrical interchange agreement or contract either to a municipal corporation, public service corporation or private electric utility or between municipal corporations, public service corporations or private electric utilities shall be exempt and a resale certificate shall not be required, provided the vendor retains a copy of the agreement or contract on file. The vendee shall be liable for the tax on any portion of the electricity purchased which is not resold. All loss of electricity resulting from the generation, transmission, or distribution thereof, including line losses, generation losses, and any other losses for which no receipts or repayments are received by a vendee shall be exempt from the gross receipts tax.~~

~~3. Telecommunication services which are taxable to the vendee as prescribed in paragraph (c) hereof.~~

~~(c) Effective January 1, 1985, access charges between telecommunication carriers shall be deemed to be for resale when the vendee acquires from the vendor access or right of access to the vendor's network and the vendee resells the same as an ingredient in its final sale to the ultimate consumer. The vendee shall furnish the vendor a resale certificate thereby exempting the vendor from the tax on the amount received as access charges. Intrastate toll activity is taxable to the vendee on the total toll revenues and the vendee shall furnish a resale certificate to the vendor providing access services. Interstate tolls shall be taxable as provided in Section 203.013, F.S.~~

~~(d) The department shall accept a valid resale certificate when submitted during the protest period but shall not accept same when submitted in any proceedings instituted under the provisions of Chapter 120, F.S., or any circuit court action instituted under Chapter 72, F.S.~~

(2)(e) The ~~Department will~~ department shall accept as valid any certificate ~~that is dated and executed and signed~~ by an officer or authorized representative of the ~~purchaser~~ vendee that contains: ~~the name and address of the vendee, the gross receipts tax registration number and its effective date, and the vendee's statement that its purchases are for resale, and that the vendee shall pay any taxes due on the things or services not resold as provided:~~

- (a) the name and address of the purchaser;
- (b) the purchaser's gross receipts tax registration number and its effective date;
- (c) a statement that the utility service is purchased for the purposes of resale as provided in Chapter 203, F.S.;
- (d) a statement that the purchaser acknowledges his or her liability for any tax due on utility services that are not resold; and
- (e) the date issued.

(3) The Department will accept a valid resale certificate, as provided in subsection (2), when submitted during the protest period but will not accept such certificate when submitted in any proceedings instituted under the provisions of Chapter 120, F.S., or any circuit court action instituted under Chapter 72, F.S.

(4)(f) Suggested Resale and Exemption Certificate Format Form:

This is to certify that the utility services, as defined in Chapter 203, F.S., things or services purchased after _____ (date) from _____ (name of seller or provider) is or was purchased for resale pursuant to the exemption under Chapter 203, F.S. I understand that if the utility service is used for any purpose other than it is further certified that the undersigned vendee shall pay the tax on the things or services that are not resold pursuant to the exemption under Chapter 203, F.S., tax is due directly to the Department of Revenue based upon the purchase price of the utility things or services, unless otherwise provided.

Name of Purchaser _____
 Address of Purchaser _____
 Purchaser's Certificate of Registration Number _____
 Effective Date of Certificate of Registration _____

Under penalties of perjury, I hereby declare that I have read the foregoing examined this certificate and that the facts stated in it are to the best of my knowledge and belief it is true, correct and complete.

By _____ (authorized signature)
Date _____

(3) Credit for Utility on Excise Taxes. ~~Other utility, excise, or similar taxes levied by the federal government, any political subdivision of the State of Florida, or municipality, upon the sale of utility services, when such tax is collected by the seller from the purchaser, shall be excluded from the seller's gross receipts when computing the tax thereon.~~

~~(4) When a taxpayer elects to pay the tax on total billings for a taxable period, rather than actual cash receipts, any adjustments to customers' bills and net uncollectibles may be adjusted on a subsequent return.~~

Specific Authority 203.01, 213.06(1) FS. Law Implemented 203.01, 203.011, 203.012, 203.013 FS. History—New 11-13-78, Amended 6-5-85, Formerly 12B-6.04, Amended _____.

12B-6.005 Payment of Tax; Reports; Public Use Forms.

~~(1) Payment of Tax. All taxes imposed by Chapter 203, Florida Statutes, shall be paid at the same time the reports are filed.~~

~~(1)(2) Payment of Tax; Reports.~~

~~(a) Generally. All taxes imposed under Chapter 203, F.S., shall for each month be due the Department of Revenue on the last day of the month following date of sale or transaction and shall be delinquent thereafter. Except as provided in Rule 12-24, F.A.C., and paragraph (b) below, all taxes imposed under Chapter 203, F.S., are due to the Department of Revenue in any given month must either reach the office of the Department of Revenue or be postmarked on or before the last day of the month following date of sale or transaction to avoid penalty and interest for late filing. When If the last day of the month falls on Saturday, Sunday, or a federal or state legal holiday, payments accompanied by returns will shall be accepted as considered timely filed if postmarked or delivered to the Department of Revenue on the next succeeding day which is not a Saturday, Sunday, or a legal holiday. For this purpose, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and Section 7503 of the 1986 Internal Revenue Code, as amended. A tax return is required to shall be filed on or before the last day of each month whether or not any taxes are due. The report is required to shall be signed under oath by an officer or a representative duly authorized to act by the taxpayer. The fact that an officer has signed a return shall be prima facie evidence that the individual was authorized to sign such document on behalf of the taxpayer.~~

~~(b) A taxpayer may elect to pay the gross receipts tax on total billings for each month, rather than actual cash receipts for utility services received in that month. Any adjustments to customers' bills and net uncollectibles may be adjusted on a subsequent monthly return.~~

~~(c)(b) Telecommunications. Taxes and returns shall be filed in the same manner as in paragraph (a) above, except any person who has his own telephone or telecommunication system for his own use shall report and pay the tax annually with the Department on or before January 31 for the tax year which ended December 31 of the preceding year. The provisions of Rule 12-24, F.A.C., apply to such taxpayers.~~

~~(2)(3) The following public-use forms and instructions are employed by the Department department in its dealings with the public related to the administration of Chapter 203, F.S.~~

These forms are hereby incorporated by reference in this rule. Copies of these forms 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. Copies may be obtained by application to the Department of Revenue, Carlton Building, Tallahassee, Florida 32399-0100.

Form Number	Title	Effective Date
(a) DR-1	Application to Collect Tax in Florida (r. 11/97)	_____
DR-133	Gross Receipts Tax, Quarterly Report	_____
(b) DR-1GR	Registration Application For Gross Receipts Tax for Utility Services (r. 09/96) Registration	_____
(c) DR-133	Gross Receipts Tax Return (r. 10/95)	_____

Specific Authority 213.06(1) FS, ~~Section 22, Chapter 89-356, Laws of Florida. Law Implemented 203.01 FS, Section 25, Chapter 89-356, Laws of Florida. History-New 11-13-78, Amended 7-1-80, 8-26-81, Formerly 12B-6.05, Amended 10-4-89, 12-19-89, _____.~~

12B-6.006 Collection and Distribution.

~~All taxes collected pursuant to s. 203.01, F.S., shall be deposited into the Public Education Capital Outlay and Debt Service Trust Fund.~~

Specific Authority 213.06(1) FS. Law Implemented 203.01 FS, Art. XII, Section 9, Subsection (2), Constitution of Florida (1968). History-New 11-13-78, Formerly 12B-6.06, Amended 10-4-89, ~~Repealed _____.~~

12B-6.007 Assessment and Collection.

~~The Department shall proceed to collect any delinquent taxes under Chapter 203, Florida Statutes, together with all penalties and interest due, the same as other delinquent taxes are collected.~~

Specific Authority 213.06(1) FS. Law Implemented 203.01 FS. History-New 11-13-78, Formerly 12B-6.07, ~~Repealed _____.~~

12B-6.008 Penalties; Interest.

~~(1)(a) Penalties. When any person fails to make a return or report as required and pay the tax due timely, a delinquent penalty shall be added to the unpaid tax in the amount of 5~~

~~percent of any unpaid tax if the failure to pay is for less than 31 days. There shall be added an additional 5 percent delinquent penalty for each additional 30 days, or fraction thereof, until the tax is paid, but the total penalty for each month shall not exceed 25 percent. However, the penalty shall not be less than \$5 for each return even though no tax is due.~~

~~(b) Any person who is required to file and pay any tax and who falsely or fraudulently reports or unlawfully attempts to evade any tax imposed under Chapter 203, F.S., shall be liable for a penalty equal to 50 percent of any tax due in addition to any other penalties provided and is guilty of a misdemeanor of the second degree punishable as provided under s. 775.082 or s. 775.083, F.S.~~

~~(2) Interest. Interest shall accrue at the rate of one percent per month from date of delinquency until paid.~~

~~(3) The Executive Director or the Executive Director's designee may compromise or settle the penalties or interest pursuant to s. 213.21, F.S.~~

Specific Authority 213.06(1) FS. Law Implemented 203.01, 203.03, 203.06, 203.07 FS. History-New 11-13-78, Amended 6-5-85, Formerly 12B-6.08, Amended 10-4-89, _____.

STATE BOARD OF ADMINISTRATION

Florida Prepaid College Board

RULE TITLES: RULE NOS.:

Application 19B-4.001

Contract Prices 19B-4.002

PURPOSE AND EFFECT: To give effect to Section 240.551(5)(c), F.S., which authorizes the Board to make and execute contracts and other necessary instruments that are required in the administration of the Florida Prepaid College Program. To provide actuarial assumptions of the annual increases in state university local fees and in community college local fees for the pricing of state university local fee contracts and community college total fee contracts.

SUBJECT AREA TO BE DISCUSSED: The incorporation by reference of two updated forms, the Prepaid College Application Form and the 1999-2000 Master Covenant, and the actuarial assumptions for increases in state university local fees and community college local fees for the pricing of state university local fee contracts and community college local fee contracts.

SPECIFIC AUTHORITY: 240.551(5) FS.

LAW IMPLEMENTED: 240.551 FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., November 29, 1999

PLACE: Suite 210, Hermitage Building, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

19B-4.001 Application.

These rules apply to purchasers of advance payment contracts for the prepayment of postsecondary registration and/or dormitory residency fees. The application period shall commence and terminate on dates set annually by the Board and published in the Florida Administrative Weekly. After acceptance by the Board of the purchaser's application, a participation and payment schedule and master covenant shall be mailed to the purchaser. The advance payment contract shall be comprised of the application, master covenant, and participation and payment schedule. The Florida Prepaid College Program Application, Form No. FPCP 99-1 ~~FPCP 98-1~~ is hereby incorporated by reference and may be obtained by calling 1-800-552-GRAD (4723) (prompt 1). The effective date of the form is October 18, 1999 ~~19, 1998~~. The Florida Prepaid College Program Master Covenant, Form No. FPCP 99-2 ~~FPCP 98-2~~, is hereby incorporated by reference with an effective date of October 18, 1999 ~~19, 1998~~.

Specific Authority 240.551(5) FS. Law Implemented 240.551 FS. History—New 3-29-89, Amended 2-6-90, 3-19-92, 12-5-93, 5-31-95, 6-20-96, 10-20-96, 12-16-97, 2-18-99, 6-6-99, Formerly 4G-4.001, Amended.

19B-4.002 Contract Prices.

The Board will evaluate prices for revision annually. All contract prices will be published annually in the Florida Administrative Weekly. Contract prices are based on the actuarial assumption that university tuition will rise at an average of 6.8 ~~7.5~~ percent per annum, community college tuition will rise at an average of (6)~~(5)~~ percent per annum and dormitory fees will rise at an average of 6 percent per annum. Local fee contract prices are based on the actuarial assumption that university local fees will rise at an average of 6 percent per annum and community college local fees will rise at an average of 11 percent per annum.

Specific Authority 240.551(5) FS. Law Implemented 240.551 FS. History—New 3-29-89, Amended 2-6-90, 3-19-92, 5-31-95, 2-18-99, Formerly 4G-4.002, Amended.

STATE BOARD OF ADMINISTRATION

Florida Prepaid College Board

RULE TITLE: Contract Types
 PURPOSE AND EFFECT: To provide that local fee plan contracts sold after July 1, 1999, provide coverage for the technology fee. The 1999 Legislature authorized community

RULE NO.: 19B-5.001

colleges to impose a technology fee. To provide for the sale of dormitory contracts for community college plus university tuition contracts.

SUBJECT AREA TO BE ADDRESSED: The inclusion of the technology fee in the coverage of the local fee plan contracts and the provision for sale of dormitory contracts for community college plus university tuition contracts.

SPECIFIC AUTHORITY: 240.551(5) FS.

LAW IMPLEMENTED: 240.551(5), (7)(a) FS.

IF REQUESTED IN WRITING, AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., November 29, 1999

PLACE: Suite 210, Hermitage Building, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

19B-5.001 Contract Types.

The program offers purchasers three different types of tuition and local fee plan contracts, respectively, with an addendum dormitory plan to the university plan or community college plus university plan contract. All types of tuition plans cover the matriculation fee, the building fee, the capital improvement fee and the financial aid fee. Local fee contracts cover the activity and service, health, and athletics fees imposed by the state universities and the student activity fee imposed by the community colleges. Local fee contracts purchased after July 1, 1999 also cover the technology fee imposed by the community colleges.

(1) Tuition plans consist of three separate plans:

(a) University Plan – The university plan specifies that 120 credit hours at a state university are purchased for the benefit of the qualified beneficiary.

(b) Community College Plan – The community college plan specifies that 60 credit hours at a state community college are purchased for the benefit of the qualified beneficiary. For community college plans purchased prior to the 1996-97 application period, the number of credit hours purchased through the community college plan shall be the number specified in the advance payment contract.

(c) Community College Plus University Plan – The community college plus university plan specifies that 60 credit hours at a state community college and 60 upper division level credit hours at a state university are purchased for the benefit of the qualified beneficiary. For community college plus

university plans purchased prior to the 1996-97 application period, the number of credit hours purchased through the community college plus university plan shall be the number specified in the advance payment contract. Tuition plans do not cover institutionally-imposed fees such as health, athletic, activity and service, technology or student activity fees.

(2) Local fee plans consist of three separate plans:

(a) University Local Fee Plan – The university local fee plan specifies that local fees for 120 credit hours at a state university are purchased for the benefit of the qualified beneficiary.

(b) Community College Local Fee Plan – The community college plan specifies that local fees for 60 credit hours at a state community college are purchased for the benefit of the qualified beneficiary.

(c) Community College Plus University Local Fee Plan – The community college plus university plan specifies that local fees for 60 credit hours at a state community college and 60 upper division level credit hours at a state university are purchased for the benefit of the qualified beneficiary.

(3) Dormitory Plan –

(a) The dormitory plan may be purchased only for those contract beneficiaries four (4) or more years away from their anticipated matriculation date at the time that the contract application is filed. Effective for enrollment periods beginning after July 1, 1997, the dormitory plan is not available unless the sale of dormitory contracts is specifically authorized by the Board prior to the enrollment period for that year and the sale of dormitory plan contracts will not adversely affect the status of the program as a “qualified state tuition program” under s. 529 of the Internal Revenue Code.

(b) A dormitory plan purchased in conjunction with or as an addendum to the community college plus university plan is intended for use after the beneficiary is admitted to a state university. A dormitory plan may only be transferred for use at a community college pursuant to Rule 19B-9.004, F.A.C.

(4) The contracts do not cover fees and costs related to books, meals, transportation, graduate school, and institutionally-imposed fees such laboratory fees.

Specific Authority 240.551(5) FS. Law Implemented 240.551(5),(7)(a) FS. History—New 3-29-89, Amended 5-17-92, 8-23-92, 5-31-95, 6-20-96, 10-20-96, 8-18-97, 2-18-99, Formerly 4G-5.001, Amended _____.

STATE BOARD OF ADMINISTRATION

Florida Prepaid College Board

RULE TITLE:

Fee Schedule

RULE NO.:

19B-6.001

PURPOSE AND EFFECT: To revise the Board's rules to rename the “Not Sufficient Fund Fee” as the “Insufficient Fund Fee” and delete the fee for change of beneficiary.

SUBJECT AREA TO BE DISCUSSED: Name revision and deletion of change of beneficiary fee.

SPECIFIC AUTHORITY: 240.551(5) FS.

LAW IMPLEMENTED: 240.551 FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., November 29, 1999

PLACE: Suite 210, Hermitage Building, Tallahassee, Florida
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

19B-6.001 Fee Schedule.

The following fee schedule will apply for all advance payment contract applicants and purchasers:

(1) Application Fee – A forty two dollar (\$42.00) nonrefundable application fee will be collected at the time the application is submitted.

(2) Termination Fee – Fifty percent (50%) of the amount paid into the plan up to a cap of fifty dollars (\$50.00) will be assessed upon termination of any plan purchased, unless:

(a) The purchaser or beneficiary dies or is disabled; or

(b) The beneficiary receives a scholarship which renders the plan unusable; or

(c) The purchaser holds the advance payment contract for a period of at least two years immediately preceding the request for termination and refund. The purchaser shall request a waiver of the termination fee at the time of the refund request. Only one termination fee will be assessed for a single termination request for both the university and dormitory plan. Documentation of one of the above events permitting the fee waiver shall also be submitted with the request.

~~(3) Substitution of Beneficiary – A five dollar (\$5.00) fee will be assessed to substitute beneficiaries under the plan, except in the event of a death or disability of a qualified beneficiary.~~

~~(3)(4) Cancellation Fee – In verifying the residency of a beneficiary, if the Board discovers that a purchaser has committed fraud, a cancellation fee of one hundred percent (100%) of the amount paid into the plan up to a maximum of two hundred fifty dollars (\$250.00) will be assessed, and the remainder of the amount paid into the plan will be automatically refunded to the purchaser.~~

~~(4)(5) Late Fee – A late fee of ten dollars (\$10.00) will be assessed on each monthly payment received twenty (20) days past the due date. The Board may grant an additional four (4) days grace period when a federal holiday occurs within the twenty (20) days mentioned above. A maximum charge of~~

seventy dollars (\$70.00) in outstanding late fees will be charged against each account upon cancellation. This charge shall be separate from and in addition to any termination fee that might be imposed pursuant to subsection (2) of this rule. If both the tuition and local fee payments are received twenty (20) or more days past the due date, only the tuition account will be assessed a ten dollar (\$10.00) late fee.

~~(5)(6)~~ **Insufficient Not Sufficient Funds** – Purchasers will automatically be assessed a ten dollar (\$10.00) fee for all payments returned for insufficient funds.

~~(6)(7)~~ **Addition of a dormitory contract** – A fee of ten dollars (\$10.00) will be assessed for any purchaser of a tuition plan who subsequently adds a dormitory plan to the previously purchased tuition plan.

~~(7)(8)~~ **Addition of a local fee contract** – A fee of ten dollars (\$10.00) will be assessed for any purchaser of a tuition plan who subsequently adds the corresponding local fee plan to the previously purchased tuition plan.

~~(8)(9)~~ **Out-of-State Transfer Fee** – A fee of twenty-five dollars (\$25.00) will be assessed for the transfer of benefits to eligible postsecondary institutions outside Florida.

~~(9)(10)~~ **Outstanding fees** – All outstanding fees must be paid by March 1 of the anticipated enrollment year in order for the qualified beneficiary to receive the contract benefits. Fees assessed after March 1 of the anticipated enrollment year and remaining unpaid on February 1 of the succeeding year will result in a suspension of the contract benefits.

~~(10)(11)~~ **Reinstatement Fee** – A \$42.00 fee shall be assessed for the reinstatement of a voluntarily canceled or involuntarily canceled account. This fee shall be due on each tuition, local fee and dormitory account. The fee shall be due from the purchaser at the time the request for reinstatement is made and shall be in addition to all payments and fees required to bring an account current.

Specific Authority 240.551(5) FS. Law Implemented 240.551 FS. History–New 3-29-89, Amended 2-6-90, 3-19-92, 8-23-92, 12-5-93, 6-20-96, 12-16-97, 2-18-99, Formerly 4G-6.001, Amended.

STATE BOARD OF ADMINISTRATION

Florida Prepaid College Board

RULE TITLE: Qualified Individual **RULE NO.:** 19B-8.001
PURPOSE AND EFFECT: To revise the Board's rules to allow the transfer of a contract to an eligible substitute beneficiary, regardless of the age or postsecondary enrollment status of the original beneficiary, as long as no Program benefits have been used.
SUBJECT AREA TO BE ADDRESSED: Transfer of contracts to substitute beneficiaries.
SPECIFIC AUTHORITY: 240.551(5) FS.
LAW IMPLEMENTED: 240.551 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., November 29, 1999

PLACE: Suite 210, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

19B-8.001 Qualified Individuals.

A purchaser may request a transfer of a contract to an eligible substitute beneficiary who is either the brother, sister, half brother, half sister, step-brother, or step-sister of the qualified beneficiary. A purchaser who is the grandparent of the qualified beneficiary may request the transfer of a contract to an eligible substitute beneficiary who is a grandchild of the purchaser. The substitute beneficiary must meet the residency requirement of a qualified beneficiary at the time of substitution. Documentation must also be submitted with the transfer request evidencing the relationship of the transferee. The contract purchaser will be required to sign and notarize any request to substitute beneficiaries on an advance payment contract. The substitution must be made prior to the qualified beneficiary using benefits at a matriculating at a state postsecondary institution.

Specific Authority 240.551(5) FS. Law Implemented 240.551 FS. History–New 3-29-89, Amended 12-5-93, 6-20-96, 8-18-97, 12-16-97, 3-24-99, Formerly 4G-8.001, Amended.

DEPARTMENT OF CITRUS

RULE CHAPTER TITLE: Standards for Processed Citrus Products **RULE CHAPTER NO.:** 20-64
RULE TITLE: Sanitary Requirements **RULE NO.:** 20-64.020
PURPOSE AND EFFECT: Would provide sanitation requirements for imported fresh squeezed citrus juices.
SUBJECT AREA TO BE ADDRESSED: Sanitation requirements for imported fresh squeezed citrus juices.
SPECIFIC AUTHORITY: 601.10(7), 601.11 FS.
LAW IMPLEMENTED: 601.10(7), 601.11, 601.44, 601.53, 601.54 FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME, DATE AND PLACE TO BE ANNOUNCED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joan B. Martin, Administrative Assistant, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF CITRUS

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Ownership and Use of "Made With Florida Citrus" Mark	20-111
RULE TITLES:	RULE NOS.:
Ownership	20-111.001
Permission Required for Use	20-111.002
Exclusive Category Rights	20-111.0021
General Restrictions on the Use of the Mark	20-111.003
Use on Containers	20-111.004
Standards for Non-beverage Food Products Bearing the Mark	20-111.007
Standards for Citrus Wines Bearing the Mark	20-111.008
Withdrawal of License or Permission	20-111.009
Definitions	20-111.010

PURPOSE AND EFFECT: Would create a new section 20-111.008 which would extend use of the "Made With Florida Citrus" trademark to citrus wines when made with Florida citrus. Amendments would also clarify provisions relating to "processing partner" agreements and "exclusive category rights."

SUBJECT AREA TO BE ADDRESSED: Guidelines for use of "Made With Florida Citrus" trademark.

SPECIFIC AUTHORITY: 601.10(1), 601.11, 601.15(10)(a) FS.

LAW IMPLEMENTED: 601.101 FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME, DATE AND PLACE TO BE ANNOUNCED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joan B. Martin, Administrative Assistant, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

PUBLIC SERVICE COMMISSION

UNDOCKETED

RULE TITLE: Rate Base Established at Time of Transfer
RULE NO.: 25-30.0371

PURPOSE AND EFFECT: To codify Commission policy on approval of acquisition adjustments.

SUBJECT AREA TO BE ADDRESSED: Adjustments to rate base of water and wastewater utilities on transfer of ownership.

SPECIFIC AUTHORITY: 367.121 FS.

LAW IMPLEMENTED: 367.071(5), 367.081(2) FS.

IF REQUESTED IN WRITING, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 a.m., December 2, 1999

PLACE: Room 182, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida 32399-0850

THE WORKSHOP REQUEST MUST BE SUBMITTED IN WRITING WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO CHRISTIANA T. MOORE, DIVISION OF APPEALS, 2540 SHUMARD OAK BOULEVARD, TALLAHASSEE, FL 32399-0850.

Any person requiring some accommodation at this workshop because of a physical impairment should call the Division of Records and Reporting, (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).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: John Mann, Division of Policy Analysis, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, (850)413-6976

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-30.0371 Rate Base Established at Time of Transfer.

(1) For the purpose of this rule and Rule 25-30.037, rate base is defined as the net book value of the utility assets being acquired. Net book value is the sum of Utility Plant in Service net of Accumulated Depreciation, Construction Work in Progress, Contributions in Aid of Construction, Advances for Construction, and Accumulated Amortization of Contributions in Aid of Construction.

(2) The Commission will not approve an acquisition adjustment to rate base, whether positive or negative, unless the party seeking an adjustment demonstrates that extraordinary circumstances exist.

(3) In determining whether extraordinary circumstances have been demonstrated, the Commission will consider such factors as:

(a) The acquiring company's ability to adequately manage, serve customers, comply with regulations, and finance capital improvements;

(b) Whether the inclusion of an acquisition adjustment will adversely impact customers;

(c) Whether the customers of the acquired company will benefit from the stabilization of rates; improved compliance with regulatory mandates; provision of improved service; construction of necessary expansion or upgrade of facilities; realization of cost efficiencies; or the benefits achieved through economies of scale.

(d) Whether the service territories of the acquired and acquiring companies are adjacent.

(e) Whether the transaction is an arms length transaction.

(f) Whether the acquired assets will continue to be used in the provision of water or wastewater service.

Specific Authority 367.121 FS. Law Implemented 367.071(5), 367.081(2) FS. History--New _____.

DEPARTMENT OF MANAGEMENT SERVICES

Florida Commission on Human Relations

RULE TITLE: General Description of Organization and Functions of Commission Staff

RULE NO.: 60Y-2.004

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendments is to have the rule requirements comport with the statutory requirements.

SUBJECT AREA TO BE ADDRESSED: Organization and functions of the staff of the Florida Commission on Human Relations.

SPECIFIC AUTHORITY: 760.06(12), 760.11(14), 760.31(5) FS.

LAW IMPLEMENTED: 760.03, 760.05, 760.06, 760.11, 760.30 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

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

PLACE: Florida Commission on Human Relations, 325 John Knox Road, Suite 240, Building F, Tallahassee, Florida 32303-4149

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Stanley G. Gorsica, Assistant General Counsel, Florida Commission on Human Relations, 325 John Knox Road, Suite 240, Building F, Tallahassee, Florida 32303-4149, whose telephone number is (850)668-7283

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

60Y-2.004 General Description of Organization and Functions of Commission Staff.

(1) No change.

(a) through (g) No change.

(2) No change.

(a) through (c) No change.

(d) issue subpoenas necessary for investigations pursuant to Subsection ~~760.06(6)~~, ~~760.06(5)~~, Florida Statutes;

(e) No change.

~~(f) reconsider determinations as provided by Rule 60Y-5.007;~~

~~(f)(g)~~ dismiss complaints, as provided by Section 60Y-5.006;

~~(g)(h)~~ promote favorable public and community relations;

~~(h)(i)~~ administer the day-to-day business of the Commission;

~~(i)(j)~~ perform such other functions as the Commission may assign by rule or order.

(3) No change.

(a) through (b) No change.

(c) make recommendations concerning determinations ~~and redeterminations~~, as provided by Rules 60Y-5.004 ~~and 60Y-5.007~~;

(d) through (e) No change.

(4) No change.

(a) through (c) No change.

(5) No change.

(6) No change.

(a) through (g) No change.

(7) No change.

(8) No change.

Specific Authority 760.06(13) FS. Law Implemented 760.03, 760.06, 760.30 FS. History--New 11-2-78, Amended 6-16-83, 8-12-85, Formerly 22T-6.04, Amended 4-20-87, Formerly 22T-6.004, Amended _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE TITLE: Seal, Signature and Date Shall Be Affixed

RULE NO.: 61G15-23.002

PURPOSE AND EFFECT: The Board proposes to amend this rule to update the language for the requirements when submitting sealed plans and prints.

SUBJECT AREA TO BE ADDRESSED: Identification of name, address and numbers to be included on sealed plans and prints.

SPECIFIC AUTHORITY: 471.025 FS.

LAW IMPLEMENTED: 471.025 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dennis Barton, Executive Director, Board of Professional Engineers, 1206 Hays Street, Tallahassee, Florida 32301

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G15-23.002 Seal, Signature and Date Shall Be Affixed.

(1) No change.

(2) Each sheet of plans and prints which must be sealed under the provisions of Chapter 471 shall be sealed, signed and dated by the professional engineer in responsible charge. Engineers shall legibly indicate their name, address, and number on each sheet. If practicing through a duly authorized engineering business, the name, address, and engineering business number shall be legibly indicated on each sheet. A title block on each sheet containing the printed name, address, and number of the engineer or engineering business will satisfy this requirement. A cover or index sheet for engineering specifications may be used and that sheet must be signed, sealed and dated by those professional engineers in responsible charge of the production and preparation of each section of the engineering specification or other engineering document with sufficient information on the cover sheet or index so that the user will be aware of each portion of the specifications for which each professional engineer is responsible. Engineering reports must be signed, sealed and dated on a signature page or cover letter by each professional engineer who is in responsible charge of any portion of the report. A professional engineer may only seal an engineering report, plan, print or specification if that professional engineer was in responsible charge of the preparation and production of the engineering document and the professional engineer has the expertise in the engineering discipline used in producing the engineering document in question.

(3) through (4) No change.

Specific Authority 471.025 FS. Law Implemented 471.025 FS. History--New 1-8-80, Amended 1-20-85, Formerly 21H-23.02, Amended 5-14-86, Formerly 21H-23.002, Amended 11-15-94, 8-18-98,_____.

Section II Proposed Rules

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE:

RULE NO.:

Implementation of Florida's System of

School Improvement and Accountability 6A-1.09981

PURPOSE AND EFFECT: The purpose of this rule revision is to implement changes in the state's system of school improvement and accountability resulting from legislation enacted by the 1999 Legislature. The rule will have the effect of revising reporting requirements and criteria for designating school performance grades. The rule will also address timelines and procedures to be taken by the State Board when one or more schools in a school district fails to make adequate progress for two years in a four-year period.

SUMMARY: This rule provides for the implementation of Florida's system of school improvement and accountability by focusing on accountability on student learning. The rule specifies the procedures and criteria by which student achievement data from the Florida Comprehensive Assessment Test (FCAT) shall be used in designating and reporting school performance grades. It further delineates the criteria used in designating each school's performance grade and publicly reporting results. The process for invoking State Board action is described. Assistance and interventions for schools failing to make adequate progress or making less than satisfactory progress are specified.

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 days of the notice.

SPECIFIC AUTHORITY: 229.053, 229.0535, 229.592, 229.57 FS.

LAW IMPLEMENTED: 228.0565, 229.053, 229.57, 229.592, 230.23, 231.2905 FS.

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

TIME AND DATE: 9:00 a.m., December 14, 1999

PLACE: Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Betty Coxe, Division of Public Schools and Community Services, 325 West Gaines Street, Room 514, Tallahassee, Florida 32399-0400, (850)488-2601