

Section I Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Instruction and Awards in Community Colleges RULE NO.: 6A-14.030

PURPOSE AND EFFECT: During the process of creating Occupational Completion Points (OCPs) for the Associate in Science degrees, changes were made to degree titles. Some degrees were merged or deleted and, in a few cases, standard program lengths changed slightly. The Articulation Coordinating Committee approved these changes in January 1999. In addition, some new degree programs were added during the 1999/2000 academic year.

SUBJECT AREA TO BE ADDRESSED: The instruction and awards community colleges are authorized to provide.

SPECIFIC AUTHORITY: 240.325 FS.

LAW IMPLEMENTED: 228.041(1),(21), 229.551(1), 239.105, 239.117(5), 239.205, 239.213, 239.301, 240.117(2), 240.301, 240.325 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AS NOTICED IN A FUTURE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Sydney H. McKenzie III, General Counsel, State Board of Community Colleges, Division of Community Colleges, 325 West Gaines St., Tallahassee, FL 32399-0400

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES:	RULE NOS.:
Specific Exemptions	12A-1.001
Sales and Use Tax on Services; Sale for Resale	12A-1.0161
Consumer's Certificate of Exemption;	
Exemption Certificates	12A-1.038
Sales for Resale	12A-1.039
Public Use Forms	12A-1.097

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.001, F.A.C. (Specific Exemptions); Rule 12A-1.0161, F.A.C. (Sales and Use Tax on Services; Sale for Resale); and Rule 12A-1.097, F.A.C. (Public Use Forms); and the proposed substantial rewording of Rule 12A-1.038, F.A.C. (Consumer's Certificate of Exemption); and Rule 12A-1.039, F.A.C. (Sales for Resale), is necessary to implement ss. 18, 19, 20, 21, 22, 23, and 24, Chapter 99-208,

L.O.F. This law substantially amended provisions regarding the exemption provided for sales made for the purpose of resale. The proposed amendments will remove obsolete guidelines for sales to exempt organizations, sales for the purposes of resale, and suggested formats of resale/exemption certificates and provide current guidelines.

The purpose of the proposed amendments to Rule 12A-1.001, F.A.C. (Specific Exemptions), is to implement the provisions of s. 1, Chapter 2000-228, L.O.F. This law substantially revised s. 212.08(7), F.S., which provides sales tax exemptions for certain qualifying organizations. With the exception of the provisions of s. 212.08(7)(cc), F.S., regarding the exemption provided for certain works of art, the new law is clear; and an administrative rule to implement these statutory provided exemptions is unnecessary. For purposes of the exemption provided for certain works of art, the law eliminates the definition provided in s. 212.08(7)(o)2.d., F.S., and creates a definition for the term "educational institution" in s. 212.08(7)(cc)8., F.S.

The purpose of the proposed amendments to Rule 12A-1.001, F.A.C., is also to remove provisions regarding sales made directly to the United States Government, a state, county, municipality, or political subdivision and the suggested formats for exemption certificates to be issued by employees of these governmental entities. These suggested formats for exemption certificates will be provided in Rule 12A-1.038, F.A.C., as proposed for amendment.

The purpose of the proposed amendments to Rule 12A-1.0161, F.A.C. (Sales and Use Tax on Services; Sale for Resale), is to provide current guidelines regarding the sale of taxable services for resale and to remove obsolete guidelines regarding sales to exempt organizations. Guidelines regarding sales to exempt organizations and the suggested formats for exemption certificates will be provided in Rule 12A-1.038, F.A.C., as proposed for amendment. Guidelines regarding sales for the purpose of resale will be provided in Rule 12A-1.039, F.A.C., as proposed for amendment.

The purpose of the proposed amendments to Rule 12A-1.038, F.A.C. (Consumer's Certificate of Exemption), is to: (1) remove obsolete guidelines regarding sales made to tax exempt entities; (2) provide guidelines for organizations and governmental entities on how to obtain a Florida Consumer's Certificate of Exemption; (3) provide guidelines for the effective dates of Florida Consumer's Certificates of Exemption issued by the Department; (4) provide guidelines on how to challenge the denial of an application for a Florida Consumer's Certificate of Exemption; (5) provide guidelines for dealers making tax exempt sales made to organizations holding a Consumer's Certificate of Exemption, to governmental entities, and to persons who purchase items tax exempt based on the use of the property or service; (6) provide guidelines on how to obtain a transaction authorization number or a vendor authorization number from the Department to

properly document tax exempt sales; and (7) provide guidelines to dealers regarding records that are required to be maintained to document tax exempt sales.

The purpose of the proposed substantial rewording of Rule 12A-1.039, F.A.C. (Sales for Resale), is to: (1) implement the provisions of Chapter 99-208, L.O.F., regarding the exemption provided for sales for the purpose of resale and the Department's requirement to issue an Annual Resale Certificate to dealers actively registered with the Department; (2) remove obsolete provisions regarding the use of resale and exemption certificates; (3) provide guidelines regarding the methods that a selling dealer may use to properly document an exempt sale for the purpose of resale; (4) provide guidelines on how a selling dealer may obtain a transaction authorization number or a vendor authorization number from the Department to properly document tax exempt sales; (5) provide guidelines to selling dealers on the requirements for documenting sales of alcoholic beverages, sales of certain motor vehicles, and sales of motor vehicles to dealers who are not required to be registered in this state; (6) provide guidelines for when a selling dealer will be held harmless for establishing the exempt nature of a tax exempt sale for the purpose of resale; (7) provide guidelines to dealers regarding records that are required to be maintained to document tax exempt sales for the purpose of resale; (8) provide the requirements on how a taxpayer may purchase items or services for the purpose of resale tax exempt and the documentation requirements of such purchases; and (9) provide how taxpayers may use the Multistate Tax Commission's Uniform Sales and Use Tax Certificate-Multijurisdiction to make tax exempt purchases for the purposes of resale.

The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to incorporate by reference, as required by s. 120.54, F.S., the amendments to forms DR-5, Application for Consumer's Certificate of Exemption, and DR-5N, Information and Instructions for Completing Application for Consumer's Certificate of Exemption.

SUBJECT AREA TO BE ADDRESSED: This workshop will provide an opportunity for the Department to receive public comments regarding the proposed amendments to Rules 12A-1.001, 12A-1.0161, and 12A-1.097, F.A.C., and the proposed substantial rewording of Rules 12A-1.038 and 12A-1.039, F.A.C. The subject of these rule amendments is the Department's proposed implementation of ss. 18, 19, 20, 21, 22, 23, and 24, Chapter 99-208, L.O.F., and the implementation of Chapter 2000-388, L.O.F.

SPECIFIC AUTHORITY: 212.07(1)(b), 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 95.091(3), 120.57(1), (2), 120.60(3), 120.80(14), 212.02(10),(12),(14),(16),(20),(21), 212.05, 212.0515, 212.054, 212.055, 212.0596(7), 212.06(1)(a),(e), (2),(9), 212.07(1),(8), 212.08(4),(5)(a),(e),(6),(7)(a),(b),(c),(d), (f),(h),(i),(k),(q),(v),(x),(cc),(nn),(8), 212.085, 212.13(4),

(5)(c),(d), 212.17(6), 212.18(2),(3), 212.21(2), 213.053(10), 213.12(2), 213.37, 403.715 FS., ss. 21, 22, 23, 24, Ch. 99-208, 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., February 14, 2001

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

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 at (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: Vicki Allen, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4846

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-1.001 Specific Exemptions.

(1) through (2) No change.

~~(3) RELIGIOUS, EDUCATIONAL, CHARITABLE, VETERANS' AND SCIENTIFIC ORGANIZATIONS, HOMES FOR THE AGED, NURSING HOMES OR HOSPICES, FEDERAL AND STATE CHARTERED CREDIT UNIONS, FLORIDA RETIRED EDUCATORS ASSOCIATION AND LOCAL CHAPTERS, ORGANIZATIONS PROVIDING SPECIAL EDUCATIONAL AND SOCIAL BENEFITS TO MINORS, STATE THEATER CONTRACT ORGANIZATIONS, MILITARY MUSEUM FUNDRAISERS, COAST GUARD AUXILIARIES, AND CEMETERY ASSOCIATIONS.~~

~~(a) A sale or lease directly to or sales or leases of tangible personal property by churches, or a sale or lease directly to nonprofit religious, nonprofit educational, nonprofit charitable institutions, and veterans' organizations, for use in the course of their customary nonprofit religious, nonprofit educational, nonprofit charitable activities, and for use by veterans' organizations, including church cemeteries, are exempt from the tax imposed by Chapter 212, F.S. Also exempt are scientific organizations and organizations providing special educational and social benefits to minors; State Theater Contract Organizations; Florida Retired Educators~~

Association; and certain nonprofit corporations qualified as homes for the aged or licensed as a nursing home or hospice. However, such institutions or organizations desiring to qualify for the exemption must obtain from the Department of Revenue a consumer's certificate of exemption, and payment must be made directly to the dealer by the exempt entity. See subparagraph (9)(d)2. of this rule for a suggested document to be provided the dealer by an employee who has been authorized to make purchases on behalf of a nonprofit organization when payments are made directly to the dealer by the exempt entity. This exemption shall not inure to any transaction otherwise taxable when payment is made by an exempt entity's employee by any means, including but not limited to, cash, check, or credit card, when that employee is subsequently reimbursed by the exempt entity. See Rules 12A-1.038 and 12A-1.039, F.A.C.

(b) With the exceptions noted below, sales or rentals of tangible personal property, rentals or leases of transient rental accommodations, rentals or leases of real property, rentals or leases of parking, docking, or tie down spaces, admissions, or other transactions subject to the tax imposed by Chapter 212, F.S., made by exempt entities are taxable. Such entities are required to register in the same manner as other dealers and collect and remit tax on transactions which are subject to the tax imposed by Chapter 212, F.S. For admission charges imposed by not-for-profit sponsoring organizations qualifying under the provisions of s. 501(c)(3) of the U.S. Internal Revenue Code, see Rule 12A-1.005(3)(g), F.A.C. Sales or leases of tangible personal property by churches are exempt. Sales or leases by the following organizations are exempt from the tax imposed pursuant to Chapter 212, F.S.:

1. Homes for the aged, nursing homes, or hospices, pursuant to s. 212.08(7)(m), F.S.;
2. Organizations providing special educational, cultural, recreational, and social benefits to minors, pursuant to s. 212.08(7)(n), F.S.;
3. State theater contract organizations, pursuant to 212.08(7)(r), F.S.;
4. Coast Guard auxiliaries, pursuant to s. 212.08(7)(ee), F.S.;
5. Citizen support organizations, pursuant to s. 212.08(7)(kk), F.S.;
6. Nonprofit cooperative hospital laundries, pursuant to s. 212.08(7)(nn), F.S.

(c) "Church" means a religious institution having an established physical place of worship where persons regularly assemble for worship and instruction for religious purposes. Religious organizations whose functions are radio or television broadcasting or those organizations conducting services for short periods of time at temporary locations, and religious associations that provide administrative functions only, are not considered to be churches.

(d) "Religious institutions" means churches, synagogues, and established physical places for worship at which nonprofit religious services and activities are regularly conducted and carried on. The term "religious institutions" includes:

1. Nonprofit corporations, the sole purpose of which is to provide free transportation services to church members, their families, and other church attendees.

2. State, district, or other governing or administrative offices whose function is to assist or regulate the customary activities of religious organizations or members within the state or district organization.

3. Any corporation qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code, 1986, as amended, that owns and operates a Florida television station of which 90 percent of the station's programming consists of programs of a religious nature. In addition, in excess of 50 percent of the financial support for the corporation, exclusive of receipts for broadcasting from other nonprofit organizations, must come from contributions from the general public.

(e) Furniture purchased by a church for the parsonage, rectory, or church home for the pastor with title to such furniture remaining in the name of the church is exempt.

(f)1. Nonprofit educational institutions must hold consumer's certificates of exemption in order to be exempt from payment of tax on materials and supplies which are purchased for use by them in their customary educational activities. See Rules 12A-1.038 and 12A-1.039, F.A.C.

2.a. "Educational institutions" shall mean state tax supported or parochial, church and nonprofit private schools, colleges, or universities conducting regular classes and courses of study required for accreditation by, or membership in, the Southern Association of Colleges and Schools, State Department of Education, Florida Council of Independent Schools, or the Florida Association of Christian Colleges or nonprofit private schools which conduct regular classes and courses of study accepted for continuing education credit by a Board of the Division of Medical Quality Assurance of the Department of Professional Regulation or which conduct regular classes and courses of study accepted for continuing education credit by the American Medical Association.

b. The term "educational institutions" includes any educational television or radio network or system established pursuant to s. 229.805, F.S., or s. 229.8051, F.S., and any nonprofit television or radio station which is a part of such network or system and which holds a current exemption from federal income tax under s. 501(c)(3), United States Internal Revenue Code.

c. The term "educational institutions" shall also include private nonprofit organizations whose primary purpose is to raise funds for schools teaching grades kindergarten through high school, colleges, and universities.

d. The term “educational institutions” also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of educational organizations or members.

e. Nonprofit libraries, art galleries, and museums open to the public are defined as educational institutions and are eligible for exemption.

f. The term “educational institutions” includes any nonprofit newspaper of free or paid circulation primarily on university or college campuses which holds a current exemption from federal income tax under s. 501(e)(3) of the Internal Revenue Code. For the taxability of the sale of newspapers by educational institutions see Rule 12A-1.008(10), F.A.C.

g. On or after July 1, 1994, the term “educational institutions” includes a nonprofit educational cable consortium which holds a current exemption from federal income tax under s. 501(e)(3) of the Internal Revenue Code, 1986, as amended, whose primary purpose is the delivery of educational and instructional cable television programming and whose members are composed exclusively of educational organizations which hold a valid consumer’s certificate of exemption and which are either an “educational institution” as defined in this paragraph or qualified as a nonprofit organization pursuant to s. 501(e)(3) of the Internal Revenue Code, 1986, as amended.

(3) ART SOLD TO OR USED BY AN EDUCATIONAL INSTITUTION.

~~(a)3-a.~~ A “work of art,” as defined in s. 212.08(7)(cc)(~~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 s. 212.08(7)(cc)8., F.S. ~~subparagraph 2,~~ or if it is 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 ~~subsection~~ ~~subparagraph~~ if it is displayed at any place other than an educational institution.

~~(b)b.~~ The purchaser or his authorized agent must: (1) complete an affidavit documenting entitlement to the exemption provided in s. 212.08(7)(cc)(~~dd~~), F.S., (2) present the affidavit to the seller of the work 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 12C-1.051 ~~12A-1.097~~, F.A.C.), as the form to be used for such purposes.

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

AFFIDAVIT FOR EXEMPTION OF A WORK
OF ART TO BE DONATED 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)(cc)(~~dd~~), F.S., from Florida sales and use tax on the work(s) 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)(cc)8.(~~e~~)2-~~d~~, F.S.

b. _____ loaned to _____, an educational institution as defined in s. 212.08(7)(cc)8.(~~e~~)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 an educational institution.

b. 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, 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. I understand that the exemption provided in s. 212.08(7)(cc)(~~dd~~), F.S., is allowed during the period of time in which the work(s) of art is in the possession of the educational institution, and

d. I understand that tax based upon the sales price as stated below will become due and payable at the time the provisions of s. 212.08(7)(cc)(~~dd~~), F.S., are no longer met, and the statute of limitations as provided in s. 95.091, F.S., will 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.

4. A signed copy of this affidavit is being forwarded to the Florida Department of Revenue at the time the original is given to the seller of the work(s) of art.

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 _____

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), _____ (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)(cc)~~8.(e)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)(cc)~~(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)(cc)~~8.(e)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 _____
_____ (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 provided to the purchaser of a work
of art loaned to an educational institution is not terminated if
the educational institution loans the work of art 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 subsection subparagraph to other educational institutions is required to notify the Department within 60 days of such transfers. The notification must 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.

~~(f)~~ Any educational institution in this state that has received from a purchaser a work of art ~~that which~~ is exempt under this subsection subparagraph is required to notify the Department within 60 days that it has received the work of art. The notification to the Department must 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)(cc)(dd), F.S., 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)(cc)(dd), F.S., 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)(cc)(dd), F.S., 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 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 the work of art is transferred, and the date on which the transfer of possession occurred.

~~(i)~~ Documents and notifications required to be provided to the Department should be mailed to the following address:

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

~~(g)1. "Charitable institutions" means only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code, 1954, as amended, and other nonprofit entities that meet the following requirements:~~

~~a. the sole or primary function is providing a "qualified charitable service" as defined in this subsection; and~~

~~b. a reasonable percentage of such service is provided free of charge, or at a substantially reduced cost, to persons, animals, or organizations that are unable to pay for such service.~~

~~2. "Qualified charitable service" means:~~

~~a. Medical aid for the relief of disease, injury, or disability;~~

~~b. Regular provision of physical necessities such as food, clothing, or shelter;~~

~~c. Services for the prevention of or rehabilitation of persons from alcoholism or drug abuse; the prevention of suicide; or the alleviation of mental, physical, or sensory health problems; services include public education or awareness programs intended to relieve or prevent any disease, injury, or disability;~~

~~d. Social welfare services including adoption placement, child care, community care for the elderly, and other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship;~~

~~e. Medical research for the relief of disease, injury, or disability;~~

~~f. Legal services;~~

~~g. Food, shelter, or medical care for animals or adoption services, cruelty investigations, or education programs concerning animals;~~

~~h. Providing volunteer manpower to charitable institutions as defined in this subsection; or~~

~~i. Raising funds for "charitable institutions" as defined in this subsection.~~

~~3.a. For the purpose of this subsection the following terms and phrases shall have the meaning ascribed to them except when the context clearly indicates a different meaning:~~

~~I. "Persons unable to pay" means persons whose annual income is 150 percent or less of the current Federal Poverty Guidelines or whose uncompensated hospital charges exceed 25 percent of their annual family income for the preceding 12 months. A charity day shall be computed from the amount of uncompensated services to persons unable to pay. However, in no case shall any of the hospital's charges for an individual or family whose income exceeds four (4) times the Federal Poverty Level for a family of four be considered charity days.~~

~~H. Example: The Smith family (family of four) whose annual family income for 1986 was \$20,000 had a catastrophic illness affect one of their children. The hospital bill which their insurance did not cover amounted to \$7,000, which represented thirty five (35) percent of their current salary.~~

b. The hospital may include those days stayed at the hospital by the child as a charity day if the outstanding balance is uncollectible. The hospital may include this total even though the family's income exceeds the Federal Poverty Level by over 170 percent because the uncompensated portion of the hospital bill exceeds 25 percent of the family's income.

e. For providers of low-income housing, "persons unable to pay" means persons who qualify as "low-income persons" pursuant to Florida's "State Housing Strategy Act."

d. "Substantially reduced cost" means the normal charge, market price, or fair market value to a purchaser or recipient, diminished in an amount of considerable quantity.

e. "Sole or primary function" means that a charitable institution, excluding hospitals, must establish and support its function as providing or raising funds for services as outlined in subparagraphs 1. and 2. above, by expending in excess of 50.0 percent of the charitable institution's operational expenditures towards "qualified charitable services", as defined in subparagraph 2.a. g., within the charitable institution's most recent fiscal year.

4.a. For charitable institutions other than hospitals, a "reasonable percentage" of the charitable services provided free or at a substantially reduced cost to those unable to pay will be determined by the particular circumstances of each institution. The following factors shall be considered in determining whether a nonprofit entity is providing a reasonable percentage of its charitable services free of charge or at a substantially reduced cost to persons, animals, or institutions unable to pay for such services:

I. services are provided free of charge;

II. services are provided at a substantially reduced cost to the recipient;

III. available services are provided to anyone who requests the service without regard to ability to pay;

IV. the ratio of services offered without cost or at a substantially reduced cost to the cost of all services provided;

V. the fair market value of the provided services offered free or at a substantially reduced cost compared to the amount of sales tax savings to the institution resulting from exemption;

VI. the likelihood that due to the nature of the services provided and the geographic area in which the services are provided, the services will be delivered to those unable to pay;

VII. medical research services and public education and awareness programs are intended to benefit the public in that they are directed toward or involve diseases, injuries, or disabilities which can affect members of the public.

b. If a charitable institution, other than a hospital, does not screen to determine whether its clientele are unable to pay, the institution may submit to the Department a statement signed by an officer or director of the institution which specifies the institution's best good faith estimate of the percentage of its services provided without charge or at a substantially reduced cost to persons unable to pay and the basis for the estimate.

e. For hospitals, meaning only those institutions as defined in Part I, Chapter 395, F.S., and subject to the licensing requirements of Part I, Chapter 395, F.S., a reasonable percentage of charitable services provided without cost to those unable to pay shall be computed by the hospital, using one of the following methods:

I. The ratio of uncompensated charity days and medicaid days (numerator) compared to total acute care inpatient days (denominator), should be greater than or equal to 2.5 percent.

II. The ratio of uncompensated charity days and medicaid days (numerator) compared to total acute care inpatient days minus medicare days (denominator) shall be greater than or equal to 5 percent. These figures used to compute charity days, medicaid days, total acute care inpatient days, and medicare days shall be those reported to and accepted by the Health Care Cost Containment Board.

(h) Political subdivisions of the state and public libraries which qualify for and maintain a current sales tax exemption certificate under s. 212.08(6) or (7), F.S., shall utilize their certificates to purchase, with funds provided by the following groups, equipment, supplies, and items necessary for the operation of the group or organization:

1. School districts shall purchase necessary goods and services requested by parent teacher organizations.

2. Counties and municipalities shall purchase necessary goods and services requested by REACT groups, neighborhood crime watch groups, and state or locally recognized organizations solely engaged in youth activities identical to those discussed in s. 212.08(7)(n), F.S.

3. Public libraries shall purchase necessary goods and services requested by groups solely engaged in fund-raising activities for such libraries.

(i) A sale or lease directly to or by a nonprofit corporation which holds a current exemption from federal corporate income tax pursuant to s. 501(c)(3), United States Internal Revenue Code, 1954, as amended, and which either qualifies as a home for the aged pursuant to s. 196.1975(2), F.S., or is licensed as a nursing home or hospice under the provisions of Chapter 400, F.S., is exempt from the tax imposed by Chapter 212, F.S., providing such entity holds a consumer's certificate of exemption. See Rules 12A-1.038 and 12A-1.039, F.A.C.

(j) Sales or leases to the state headquarters of veterans' organizations and the state headquarters of their auxiliaries, when used in carrying out their customary veterans organization activities, are exempt from payment of the tax imposed by Chapter 212, F.S., providing such organizations hold a consumer's certificate of exemption. If the organization or its auxiliary does not maintain a permanent state headquarters, the transactions involving sales or leases used to maintain the office of the highest ranking state official are exempt. See Rules 12A-1.038 and 12A-1.039 F.A.C. "Veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited

to, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(e)(4) or s. 501(e)(19) of the Internal Revenue Code.

(k)1. The term "scientific organizations" means scientific organizations in Florida holding a current exemption from federal income tax under s. 501(e)(3) of the Internal Revenue Code. This term also means organizations whose purpose is to protect air and water quality or protect wildlife in Florida and which hold current exemptions from the federal income tax under s. 501(e)(3) of the Internal Revenue Code.

2. Sales or leases directly to nonprofit scientific organizations are exempt from the tax imposed by Chapter 212, F.S., providing such organizations hold a consumer's certificate of exemption. See Rules 12A-1.038 and 12A-1.039, F.A.C.

(l) A chamber of commerce is not entitled to exemption on its purchases as it is not a religious, educational, or charitable institution. The funds derived from the cities and counties by taxation paid to the chamber of commerce do not exempt it on the expenditure of those funds unless the purchases involved are made directly by the city or county.

(m) Unless qualified as hereinbefore provided, civic, commercial, cooperative, fraternal, social, labor, and veterans' organizations are not exempt organizations under Chapter 212, F.S. Sales and rentals made to or by them are taxable in the same manner as those made to or by other "dealers".

(n) Sales to or purchases by federally chartered and state chartered credit unions are exempt from the tax imposed by Chapter 212, F.S. Each credit union claiming the exemption should apply to the Department for a consumer's certificate of exemption.

(o) Nonprofit organizations incorporated in accordance with Chapter 617, F.S., which have qualified under s. 501(e)(3) of the Internal Revenue Code of 1954, as amended, and which have been designated as State Theater Contract Organizations as provided in s. 265.289, F.S., shall be exempt from any tax imposed by Chapter 212, F.S.

(p) Sales to or purchases by the Florida Retired Educators Association and Local Chapters of office supplies, equipment, and publications only are exempt from tax imposed by Chapter 212, F.S. See Rules 12A-1.038 and 12A-1.039, F.A.C.

(q) Nonprofit organizations providing special educational, cultural, recreational, and social benefits to minors which are incorporated pursuant to Chapter 617, F.S., or which hold a current exemption from federal corporate income tax pursuant to s. 501(e)(3) of the United States Internal Revenue Code whose primary purpose is providing activities which contribute to the development of good character, good sportsmanship, or to the educational or cultural development of minors are exempt from the tax imposed by Chapter 212, F.S. "Primary

purpose" means that the applicant for this exemption must establish and support its function by expending in excess of 50% of the organization's total expenditures towards the referenced activities within the organization's most recent fiscal year. For purposes of making exempt purchases, such organizations must hold a consumer's certificate of exemption. (See Rules 12A-1.038 and 12A-1.039, F.A.C.) This exemption is extended only to that level of the organization that has a salaried executive officer or an elected non-salaried executive officer.

(r) Sales to nonprofit corporations which hold a current exemption from federal corporate income tax pursuant to s. 501(e)(3), United States Internal Revenue Code, 1954, as amended, whose primary purpose is to raise money for military museums are exempt from the payment of the tax imposed by Chapter 212, F.S., providing such nonprofit corporations hold a consumer's certificate of exemption. See Rules 12A-1.038 and 12A-1.039 F.A.C.

(s) On or after July 1, 1992, sales or leases directly to or purchases or use by Coast Guard auxiliaries are exempt from the tax imposed by Chapter 212, F.S., if the Coast Guard auxiliary holds a consumer's certificate of exemption and presents it to the dealer at the time of sale. For purposes of this paragraph, "Coast Guard auxiliaries" are defined as nonprofit organizations affiliated with the United States Coast Guard which are exempt from federal income tax under ss. 501(a) and 501(e)(3) of the U.S. Internal Revenue Code of 1986, as amended, and the primary purpose of which is to promote safe boating and to conduct free classes in basic seamanship. (See Rules 12A-1.038 and 12A-1.039, F.A.C.)

(t) On or after July 1, 1992, sales or leases directly to or purchases or use by a nonprofit corporation, operated for the purpose of maintaining a cemetery that was donated to the community by deed, that has qualified under s. 501(e)(13) of the U.S. Internal Revenue Code of 1986, as amended, are exempt from the tax imposed by Chapter 212, F.S., if the nonprofit corporation holds a consumer's certificate of exemption and presents it to the dealer at the time of sale. (See Rules 12A-1.038 and 12A-1.039, F.A.C.)

(4) through (8) No change.

(9) GOVERNMENTAL UNITS.

(a) All sales made directly to the United States Government, a state, or any county, municipality, or political subdivision of a state are exempt, except machines, equipment, parts, and accessories therefor used in the generation, transmission, or distribution of electricity. Except for purchases by employees of the United States Government, this exemption is not available for any taxable transaction when payment is made by a governmental employee by use of personal funds, including cash, checks, or credit cards, when the employee is subsequently reimbursed by the governmental entity. Payment must be made directly to the dealer by the governmental entity of a state, or any county, municipality, or

political subdivision of a state. Purchases made by Federal employees on behalf of their agency are exempt even though the employee is subsequently reimbursed by the agency. Such governmental entities desiring to qualify for the exemption must obtain from the Department of Revenue a consumer's certificate of exemption (see Rule 12A-1.038 and 12A-1.039, F.A.C.). The exemption provided in this subsection shall be strictly defined, limited, and applied to each entity as provided herein.

(b) through (c) renumbered (a) through (b) No change.

~~(d) Vendors are required to document exempt sales. Federal employees, other government employees, and employees of nonprofit organizations described in subsection (3) of this rule shall provide the vendor with proper documentation of the exempt nature of the sale.~~

1. A suggested format of the document to be provided by Federal employees to their vendors is the following:

FEDERAL EMPLOYEE'S CERTIFICATE

DATE

SELLING DEALER'S NAME

SELLING DEALER'S ADDRESS

I, the undersigned, am an employee of the Federal agency identified below. The purchase or lease of tangible personal property or services or the rental of living accommodations on _____ (DATE[S]) from the business identified above is in pursuit of my employer's affairs. The Government of the United States either will pay the seller directly, or will provide reimbursement to the employee for the actual cost of the purchase or lease of tangible personal property, services, or sleeping accommodations made on this date(s). Under penalties of perjury, I declare that I have read the foregoing and that the facts stated in it are true.

SIGNATURE OF EMPLOYEE

NAME OF FEDERAL AGENCY

ADDRESS OF FEDERAL AGENCY

~~THIS CERTIFICATE MAY NOT BE USED TO MAKE EXEMPT PURCHASES OR LEASES OF TANGIBLE PERSONAL PROPERTY OR SERVICES OR RENTAL OF LIVING ACCOMMODATIONS FOR THE PERSONAL USE OF ANY INDIVIDUAL EMPLOYED BY A UNITED STATES GOVERNMENT AGENCY. PROPER IDENTIFICATION IS REQUIRED BEFORE THIS CERTIFICATE MAY BE ACCEPTED BY THE SELLER.~~

2. A suggested format of the document to be provided by other government employees or employees of nonprofit organizations to their vendors is the following:

EMPLOYER'S AUTHORIZATION TO MAKE PURCHASES ON BEHALF OF AN EXEMPT GOVERNMENTAL OR NONPROFIT ORGANIZATION

DATE

TO: _____

SELLING DEALER'S NAME

SELLING DEALER'S ADDRESS

~~I, the undersigned, am a representative of the exempt governmental or nonprofit organization identified below. The purchase or lease of tangible personal property or services or the rental of living accommodations made on _____ (DATE[S]) from the business identified above is for use by the exempt governmental or nonprofit organization identified below.~~

The charges for the purchase or lease of tangible personal property or services or the rental of living accommodations from the dealer identified above will be billed to and paid directly by the exempt governmental or nonprofit organization.

Under penalties of perjury, I declare that I have read the foregoing and that the facts stated in it are true.

AUTHORIZED SIGNATURE ON BEHALF OF EXEMPT ENTITY

NAME OF EXEMPT ENTITY

ADDRESS OF EXEMPT ENTITY

~~CONSUMER'S CERTIFICATE OF EXEMPTION NUMBER THIS CERTIFICATE MAY NOT BE USED TO MAKE PURCHASES OR LEASES OF TANGIBLE PERSONAL PROPERTY OR SERVICES OR RENTAL OF LIVING ACCOMMODATIONS FOR THE PERSONAL USE OF ANY INDIVIDUAL REPRESENTING THE EXEMPT ENTITY IDENTIFIED ABOVE.~~

(10) 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), (t), (v), (x), (bb), (cc), (dd), (8), 212.085, 212.17, 212.18, 213.12(2), 213.37, 403.715~~ FS. 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, 4-2-00, 6-28-00, _____.

12A-1.0161 Sales and Use Tax on Services; Sale for Resale.

(1) through (3) No change.

~~(4)(a) Sales of services made directly to the United States Government, a state, any county, municipality, or political subdivision of a state, or any qualifying nonprofit religious,~~

~~nonprofit charitable, nonprofit educational, nonprofit veterans', or nonprofit scientific organization or institution, are exempt from tax.~~

~~(b) Also exempt are sales made to nonprofit corporations who hold a current federal exemption under section 501(c)(3) of the Internal Revenue Code, if the corporation's primary purpose is:~~

- ~~1. to raise funds for military museums;~~
- ~~2. to operate homes for the aged pursuant to s. 196.1975(2), Florida Statutes;~~
- ~~3. to operate nursing homes licensed under Chapter 400, Florida Statutes;~~
- ~~4. to provide special educational, cultural, recreational, and social benefits to minors; or~~
- ~~5. to operate a facility which has been designated as a State Theater Program facility by s. 265.287, Florida Statutes.~~

~~(c) Sales made to these governmental entities, nonprofit organizations, institutions, or corporations will be considered exempt only if the governmental entity, nonprofit organization, institution, or corporation holds a consumer's certificate of exemption and presents it to the service provider at the time of sale, except that such sales made to the United State Government are exempt with or without a consumer's certificate of exemption.~~

~~(d) The following is a suggested format for an exemption certificate to be used when making sales of services to governmental units or other exempt entities.~~

~~This is to certify that the service(s) purchased on or after _____ (date) from _____ (name) pursuant to _____ (contract number or other form of agreement) is purchased by a governmental entity, nonprofit organization, institution, or corporation which holds a consumer's certificate of exemption.~~

~~Purchaser _____~~
~~Address _____~~
~~By _____~~
~~_____ (Signature)~~
~~Date _____~~
~~Consumer's Certificate of Exemption No. _____~~
~~Effective Date of Certificate _____~~
~~Expiration Date of Certificate _____~~

~~(4)(5)(a) A sale of a service is a sale for resale and is exempt from sales tax when the service is later sold under the following conditions:~~

~~(a)1- The service provides a direct and identifiable benefit to a single client or customer of the purchaser; and~~

~~(b)2- The purchaser of the service buys the service pursuant to a written contract (or other evidence sufficient for audit purposes) with the seller which specifically designates the client or customer on whose behalf the purchaser is buying the service; and~~

~~(c)3- The purchaser of the service separately states the value of the service in the charge for the service when it is subsequently sold to the purchaser's client or customer; and~~

~~4. The selling dealer obtains a resale certificate from a purchasing dealer who is primarily engaged in the business of selling taxable services. In order to purchase a service tax exempt as a sale for resale, the purchaser's sales tax number must end in digits 92 or 93.~~

~~(d)5- The selling dealer complies with the provisions of Rule 12A-1.039, F.A.C., with regard to documenting sales for resale. When a sale of a service is made to a person who claims to be entitled to purchase services for resale, the seller of the service being a duly registered dealer pursuant to Chapter 212, F.S., shall obtain from the purchaser of the service a resale certificate. The resale certificate, executed by the purchaser of the service, shall contain a statement to the effect that the service is being purchased exclusively for resale and the statement shall include the following information:~~

- ~~a. The name of the person selling the service;~~
- ~~b. The purchaser's Certificate of Registration Number;~~
- ~~c. The effective date of the purchaser's Certificate of Registration;~~
- ~~d. The purchaser's name and address;~~
- ~~e. The signature of the person executing the statement; and~~
- ~~f. The date of execution of the statement.~~

~~(b) The following is a suggested service resale certificate to be completed by the purchaser and presented to the seller on each purchase of a service for resale:~~

~~This is to certify that the service(s) purchased on _____ (date) from _____ (name) pursuant to _____ (contract number or other form of agreement) is purchased for resale.~~

~~Purchaser _____~~
~~Address _____~~
~~By _____~~
~~_____ (Signature)~~
~~Date _____~~
~~Certificate of Registration No. _____~~
~~Effective Date of Certificate _____~~

~~(e) Any dealer who makes a sale for resale of a service which is not in compliance with the provisions of this subsection shall himself be liable for and pay the tax.~~

(6) through (13) renumbered (5) through (12) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(b),(j), 212.054, 212.055, 212.0596(7), 212.06(1)(a),(2)(k), 212.07(1)(b),(8), 212.08(7)(v) FS. History—New 5-13-93, Amended 1-4-94, 10-17-94, 3-20-96, 4-2-00.

(Substantial rewording of Rule 12A-1.038 follows. See Florida Administrative Code for present text.)

12A-1.038 Consumer's Certificate of Resale—and Exemption; Exemption Certificates.

(1) It is the specific legislative intent that each and every sale, admission, use, storage, consumption, or rental is taxable, unless such sale, admission, use, storage, consumption, or rental is specifically exempt. The exempt nature of the transaction must be established by the selling dealer. Unless the selling dealer shall have taken from the purchaser the required documentation as provided in subsections (3), (4), or (5) of this rule, the sale shall be deemed to be taxable. Subsection (3) of this rule governs sales made to exempt entities (other than governmental units) that hold a Consumer's Certificate of Exemption. Subsection (4) of this rule governs sales made directly to governmental units. Subsection (5) of this rule governs sales exempt based on the use of the property or services.

(2) HOW TO OBTAIN A CONSUMER'S CERTIFICATE OF EXEMPTION.

(a) Any organization determined by the Internal Revenue Service to be currently exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, any state, county, municipality, or other political subdivision of a state, qualifying for the exemption provided in s. 212.08(6), F.S., any state chartered credit union qualifying for exemption under s. 213.12(2), F.S., and any other organization qualifying for exemption under s. 212.08(7), F.S., desiring to qualify for these exemptions must obtain a Consumer's Certificate of Exemption. To obtain a Consumer's Certificate of Exemption, the organization must file an Application for a Consumer's Certificate of Exemption (Form DR-5, incorporated by reference in Rule 12A-1.097, F.A.C.) and documentation sufficient to substantiate the applicant's claim for exemption with the Department. The United States Government or any of its federal agencies is not required to obtain a Consumer's Certificate of Exemption. The Department will issue a Consumer's Certificate of Exemption (form DR-14) to each applicant qualifying for exemption under ss. 212.08(6) or (7), F.S., or s. 213.12(2), F.S.

(b) A Consumer's Certificate of Exemption will be valid from its "Issue Date" through its "Expiration Date," as indicated on the certificate (form DR-14). Any dealer selling taxable property, services, or admissions to an exempt entity prior to the date of issue, or after the date of expiration, indicated on the exempt entity's Consumer's Certificate of Exemption, is required to collect tax. An entity whose Consumer's Certificate of Exemption has been revoked by the

Department is prohibited from extending a copy of its certificate to purchase taxable property, services, or admissions exempt from tax. However, a selling dealer who accepts in good faith a copy of a Consumer's Certificate of Exempt that appears valid and current on its face will not be liable for any applicable tax due on sales to the entity or subject to other punitive actions.

(c) Pursuant to the requirements of s. 120.60(3), F.S., the Department will notify an applicant when it intends to deny the applicant a Consumer's Certificate of Exemption by issuing the applicant a Notice of Intent to Deny. The Notice of Intent to Deny notifies the applicant of the Department's intended action and the facts and legal authority which support that intended action.

(d) In order to challenge the denial of an application for a Consumer's Certificate of Exemption, the applicant receiving a Notice of Intent to Deny must request an administrative hearing under the provisions of s. 120.57, F.S. The Request for Hearing must be delivered to the Department by hand delivery or mail within 21 days from the date of issuance of the Notice of Intent to Deny. If the Request for Hearing is filed with the Department by mail, the date of the postmark will be the date the Request for Hearing is deemed filed for purposes of the 21-day time computation. The Request for Hearing must be delivered to:

Office of the General Counsel
Department of Revenue
501 South Calhoun Street
Carlton Building
Post Office Box 6668
Tallahassee, Florida 32314-6668.

(e) The Request for Hearing must contain the following:

1. The name and address of the entity opposing the denial of a Consumer's Certificate of Exemption;
2. The case number of the application for a Consumer's Certificate of Exemption;
3. A statement requesting an administrative hearing;
4. A statement specifying the factual allegations in the Notice of Intent to Deny that the entity disputes;
5. A statement setting forth any other factual or legal issues that the entity intends to raise in protest of the Department's intended action;
6. A statement that the entity will be substantially affected by the denial of the application for a Consumer's Certificate of Exemption and why the entity will be so affected;
7. A request for relief;
8. The name and title of the person submitting the Request for Hearing;
9. The signature of the person submitting the Request for Hearing; and
10. The date of the Request for Hearing.

(3) SALES MADE TO EXEMPT ENTITIES OTHER THAN GOVERNMENTAL UNITS.

(a) An entity that holds a valid Consumer's Certificate of Exemption (form DR-14) issued by the Florida Department of Revenue may extend a copy of its certificate to the selling dealer to purchase or rent taxable property or services used for its authorized tax exempt purpose in lieu of paying sales tax. Purchases of property or services used for the entity's authorized tax exempt purposes must be made with the purchasing entity's funds and may not be made with personal funds of the purchasing entity's authorized representative. When the payment for taxable property or services is made with an authorized representative's personal funds, the purchase is subject to tax, even if the representative is subsequently reimbursed with the entity's funds.

(b) To make purchases or rentals for the purposes of resale, the entity must be registered as a sales tax dealer and issue the selling dealer an Annual Resale Certificate (form DR-13), as provided in Rule 12A-1.039, F.A.C.

(c) It is the exempt entity's responsibility to determine whether the purchase or rental will be used for its authorized tax exempt purpose or for the purposes of resale and to provide the proper documentation to the selling dealer. In lieu of obtaining a copy of the entity's valid Consumer's Certificate of Exemption, the selling dealer may obtain a Transaction Authorization Number or a Vendor Authorization Number from the Department prior to making a tax exempt sale to the entity. A selling dealer who accepts in good faith a copy of an entity's valid Consumer's Certificate of Exemption or Annual Resale Certificate, or a Transaction Authorization Number or Vendor Authorization Number issued by the Department will not be held liable for any tax due on sales made to the entity during the effective dates indicated on the certificate or the effective dates of the authorization number. The selling dealer must maintain the required authorization numbers and certificates in its books and records for the time period provided in subsection (6) of this rule.

(d) An exemption certificate granted by any other state, District of Columbia, or territory of the United States to the selling dealer is not sufficient to make tax-exempt purchases or rentals in Florida. The fact that an entity holds an exemption from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, is not sufficient to make tax exempt purchases or rentals in Florida.

(e) An entity holding a valid Consumer's Certificate of Exemption may not extend a copy of its certificate to a contractor to be applied to contracts for the construction or improvement of real property. See Rule 12A-1.094, F.A.C., for guidance on direct purchases by governmental entities of construction materials in real property projects.

(f) The validity of a Consumer's Certificate of Exemption may be verified by calling the Department of Revenue's touch tone telephone authorization system at 1-877-357-3725. Persons with hearing or speech impairments may call the Department's TDD, at 1-800-367-8331.

(g)1. TRANSACTION AUTHORIZATION NUMBER ISSUED AT POINT-OF-SALE – VALID FOR A SINGLE TRANSACTION ONLY. In lieu of obtaining a copy of the exempt entity's valid Consumer's Certificate of Exemption, the selling dealer may obtain a Transaction Authorization Number or a Vendor Authorization Number from the Department prior to making a tax exempt sale to the exempt entity or its authorized representative.

2. The selling dealer may obtain a transaction authorization number at the point-of-sale by calling the Department's automated nationwide toll-free verification system at 1-877-357-3725. Using a touch-tone telephone, the selling dealer is prompted to key in the purchaser's Consumer's Certificate of Exemption Number. The system will either issue a 13-digit transaction authorization number or alert the selling dealer that the purchaser does not have a valid Consumer's Certificate of Exemption. Selling dealers who do not have a touch-tone telephone will be connected to a live operator during the hours of 8:00 a.m. to 7:00 p.m. (Eastern Time), Monday through Friday. Persons with hearing or speech impairments may call the Department's TDD at 1-800-367-8331.

3. The selling dealer must document the transaction authorization number on the sales invoice, purchase order, or other document that is prepared by the purchaser or the selling dealer to document the tax exempt purchase by the exempt entity.

4. A transaction authorization number is valid for a single sales transaction and is not valid to properly document subsequent sales made to the same entity. The selling dealer must obtain a new vendor authorization number for subsequent tax exempt transactions.

(h)1. VENDOR AUTHORIZATION NUMBER FOR REGULAR CUSTOMERS – VALID FOR CALENDAR YEAR ISSUE. In lieu of obtaining a copy of the exempt entity's valid Consumer's Certificate of Exemption or a Transaction Authorization Number from the Department for each sale to the entity, the selling dealer may obtain a Vendor Authorization Number for that entity. This option is available to selling dealers throughout the calendar year without limitation.

2. The "vendor authorization number" is a customer-specific authorization number that will be valid for all sales made to an exempt entity during the calendar year.

3. To obtain vendor authorization numbers, the selling dealer must forward to the Department, using an electronic medium, a list of the dealer's regular customers for which the dealer has a Consumer's Certificate of Exemption number. The

electronic format for sending the customer data may be obtained from the Department's web site at <http://sun6.dms.state.fl.us/dor/> or by calling the Department at (850)488-3516. In response to the request, the Department will issue to the selling dealer, using the same electronic medium, a list containing a unique vendor authorization number for each exempt entity who is a holder of a valid Consumer's Certificate of Exemption.

4. The selling dealer may make tax exempt sales to the exempt entity during the period in which the vendor authorization number for that entity is valid. Vendor authorization numbers are valid for the remainder of the calendar year during which they are issued. However, vendor authorization numbers issued by the Department in November or December are valid for the remainder of that calendar year and the next calendar year.

(4) SALES MADE DIRECTLY TO GOVERNMENTAL UNITS.

(a) Any state, or any county, municipality, or political subdivision of a state that holds a valid Consumer's Certificate of Exemption (form DR-14) issued by the Florida Department of Revenue may issue a copy of its certificate to the selling dealer to purchase or rent taxable items or services tax exempt in lieu of paying sales tax. The United States Government is not required to hold a Consumer's Certificate of Exemption to make tax exempt purchases and rentals.

(b) Payment for tax exempt purchases or rentals of property or services must be made directly to the selling dealer by the governmental unit of a state, or any county, municipality, or political subdivision of a state. Payments made with an authorized P-Card are considered to be made directly by the governmental unit. When the payment for taxable property or services is made with the personal funds of an authorized representative of the governmental unit, the purchase is subject to tax, even if the representative is subsequently reimbursed with the governmental unit's funds. The authorized representative of any state, county, municipality, or political subdivision of a state, must CHOOSE ONE of the following methods to make tax exempt purchases or rentals:

1. Use an authorized Purchasing or Procurement Card ("P-Card") which indicates on its face that it is a Florida government purchasing card for official business only. Information printed on the front of the card will include the agency's name, the agency's Consumer's Certificate of Exemption number, the account number, the name of the cardholder (employee), and the expiration date. The selling dealer who accepts the "P-Card" should retain a copy of the face of the "P-Card" to note the Consumer's Certificate of Exemption number, account number, and cardholder name for its books and records to properly document the exempt sale. When the selling dealer cannot copy the "P-Card," the dealer

must retain the Consumer's Certificate of Exemption number, the account number, cardholder's name, and the expiration date of the "P-Card."

2. Issue a certificate containing the governmental unit's name, address, the Consumer's Certificate of Exemption Number, the effective date and expiration date of the Consumer's Certificate of Exemption, and the signature of an authorized representative of the governmental unit. The following is a suggested format of the certificate:

EMPLOYER'S AUTHORIZATION TO MAKE PURCHASES ON BEHALF OF AN EXEMPT GOVERNMENTAL UNIT

DATE

TO: _____
SELLING DEALER'S NAME

SELLING DEALER'S ADDRESS

I, the undersigned, am a representative of the exempt governmental unit identified below. The purchase or lease of tangible personal property or services or the rental of living quarters or sleeping accommodations made on or after _____ (DATE[S]) from the business identified above is for use by the exempt governmental unit identified below.

The charges for the purchase or lease of tangible personal property or services or the rental of living quarters or sleeping accommodations from the dealer identified above will be billed to and paid directly by the exempt governmental unit.

Under penalties of perjury, I declare that I have read the foregoing and that the facts stated in it are true.

AUTHORIZED SIGNATURE ON BEHALF OF EXEMPT GOVERNMENTAL UNIT

NAME OF EXEMPT GOVERNMENTAL UNIT

ADDRESS OF EXEMPT GOVERNMENTAL UNIT

CONSUMER'S CERTIFICATE OF EXEMPTION NUMBER

THIS CERTIFICATE MAY NOT BE USED TO MAKE PURCHASES OR LEASES OF TANGIBLE PERSONAL PROPERTY OR SERVICES OR RENTAL OF LIVING ACCOMMODATIONS FOR THE PERSONAL USE OF ANY INDIVIDUAL REPRESENTING THE EXEMPT ENTITY IDENTIFIED ABOVE.

(c) The purchase or rental of property or services by employees authorized on behalf of a federal agency is exempt, even though the employee is subsequently reimbursed by the

federal agency. The following is a suggested certificate format to be issued by federal employees to the selling dealer to make tax exempt purchases or rentals:

EXEMPTION CERTIFICATE
TO BE USED BY FEDERAL EMPLOYEES

DATE

SELLING DEALER'S NAME

SELLING DEALER'S ADDRESS

I, the undersigned am an employee of the federal agency identified below. The purchase or lease of tangible personal property or services or the rental of living quarters or sleeping accommodations on or after _____ (DATE[S]) from the business identified above is in pursuit of my employer's affairs. The Government of the United States either will pay the seller directly or will provide reimbursement to the employee for the actual cost of the purchase or lease of tangible personal property, services, or living quarters or sleeping accommodations made on this date(s).

Under penalties of perjury, I declare that I have read the foregoing and the facts stated in it are true.

SIGNATURE OF EMPLOYEE

NAME OF FEDERAL AGENCY

ADDRESS OF FEDERAL AGENCY

THIS CERTIFICATE MAY NOT BE USED TO MAKE EXEMPT PURCHASES OR LEASES OF TANGIBLE PERSONAL PROPERTY OR SERVICES OR RENTAL OF LIVING ACCOMMODATIONS FOR THE PERSONAL USE OF ANY INDIVIDUAL EMPLOYED BY A UNITED STATES GOVERNMENTAL AGENCY. PROPER IDENTIFICATION IS REQUIRED BEFORE THIS CERTIFICATE MAY BE ACCEPTED BY THE SELLER.

(d) To make purchases or rentals for the purpose of resale, the state, county, municipality, or political subdivision of a state must be registered as a sales tax dealer and extend to the selling dealer a copy of its Annual Resale Certificate (form DR-13), as provided in Rule 12A-1.039, F.A.C.

(e) It is the responsibility of the authorized representative of any state, county, municipality, or political subdivision of the state to determine whether the purchase is for use by the governmental unit or for the purpose of resale and to provide the documentation required in this subsection to the selling dealer. A selling dealer who accepts in good faith the required documentation or an Annual Resale Certificate will not be held liable for any tax due on sales made to the governmental unit during the effective time period indicated on the certificate

obtained from the purchaser. The selling dealer must maintain the required documentation in its books and records for the time period provided in subsection (6) of this rule.

(5) SALES EXEMPT BASED ON THE USE OF THE PROPERTY OR SERVICES.

(a)1. The provisions of this subsection apply only to persons (other than the United States Government or any federal agency) who do not hold a Consumer's Certificate of Exemption (form DR-14) that purchase, lease, license, or rent tangible personal property or purchase services exempt from tax imposed under Chapter 212, F.S., based on the use of the property or service.

2. The provisions of this subsection do not apply to exemption affidavits required under the provisions of Chapter 212, F.S., and Rule Chapter 12A-1, F.A.C.; suggested certificates provided in other rule sections in Rule Chapter 12A-1, F.A.C.; or suggested certificates provided in Taxpayer Information Publications issued by the Department. The provisions of Chapter 212, F.S., Rule Chapter 12A-1, F.A.C., and Taxpayer Information Publications are available on the Department's Tax Law Library provided to the public on its Internet site at <http://sun6.dms.state.fl.us/dor>. Dealers are required to maintain the exemption affidavits and exemption certificates, as well as the certificates and documentation required in this rule section, in their books and records for the time periods provided in subsection (6) of this rule.

3. The provisions of this subsection do not apply to the tax exempt sale of utilities that are used by the purchaser exclusively for residential household purposes. Guidelines regarding the sale of utilities are provided in Rules 12A-1.053 and 12A-1.059, F.A.C.

4. The provisions of this subsection do not apply to purchases or rentals that are for resale. A person who desires to make purchases or rentals for resale must comply with the provisions of Rule 12A-1.039, F.A.C.

(b) Any person who is purchasing, renting, leasing, or licensing tangible personal property or services that qualify for an exemption from tax imposed under Chapter 212, F.S., based on the use of the property or service, must extend an exemption certificate to the selling dealer in lieu of paying tax. The exemption certificate must contain the purchaser's name, address, the reason for which the use of the property or service qualifies for exemption based on its use, and the signature of the purchaser or an authorized representative of the purchaser. The selling dealer is only required to obtain one certificate for sales made for the purposes indicated on the certificate and is not required to obtain an exemption certificate for subsequent sales made for the exempt purpose indicated on the exemption certificate. The selling dealer must maintain the required exemption certificates in its books and records for the time period provided in subsection (6) of this rule.

(c) Selling dealers may contact the Department at 1-800-352-3671 to verify the specific exemption specified by the purchaser. Persons with hearing or speech impairments may call the Department's TDD, at 1-800-367-8331.

(d) The following is a suggested format of an exemption certificate to be issued by a purchaser who does not hold a Consumer's Certificate of Exemption, but who claims that the purchase, rental, lease, or license of the property, or the purchase of the services is for an exempt purpose. Exemption purposes listed on the suggested format that are not relevant to the purchaser may be eliminated from the certificate.

**EXEMPTION CERTIFICATE
FOR EXEMPTIONS BASED ON THE
PROPERTY'S USE**

This is to certify that the tangible personal property purchased, leased, licensed, or rented, or services purchased, on or after _____ (date) from _____ (Selling Dealer's Business Name) is purchased, leased, licensed, or rented for the following purpose as checked in the space provided. This is not intended to be an exhaustive list:

- Materials, containers, labels, sacks, bags, or similar items intended to accompany a product for sale at other than retail, as provided in s. 212.02(14)(c), F.S., by persons who are not required to be registered under s. 212.18(3), F.S.
- Export of tangible personal property for use outside this state, as provided in Rule 12A-1.064(1), F.A.C.
- Incorporation into items of tangible personal property manufactured, produced, compounded, processed, or fabricated for one's own use, as provided in Rule 12A-1.043, F.A.C.
- Printing of a publication exempt under the provisions of s. 212.08(7)(w), F.S.
- Items, such as paper and ink, that will be incorporated into and become a component part of a publication exempt under the provisions of s. 212.08(7)(w), F.S.
- Educational materials that are used in the classroom and not used for its administration by child care facilities outlined in s. 402.305, F.S., that hold a current license under s. 402.308, F.S., holds a current Gold Seal Qualify Care designation as provided in s. 402.281, F.S., and provide all employees with basic health insurance as defined in s. 627.6699(12), F.S., as provided in s. 212.08(7)(m), F.S.
- Other (include description and statutory citation) _____

I understand that if I use the property or service for any purpose other than the one I stated, I must pay tax on the purchase or lease price of the taxable property or service directly to the Department of Revenue.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

The exemption specified by the purchaser may be verified by calling 1-800-352-3671.

Purchaser's Name _____
Purchaser's Address _____
Name and Title of Purchaser's Authorized Representative _____
Sales and Use Tax Certificate of Registration No. (if applicable) _____
By _____
(Signature of Purchaser or Authorized Representative)
Title _____
(Title – only if purchased by an authorized representative of a business entity)
Date _____

(6) RECORDS REQUIRED. Selling dealers must maintain blanket resale and exemption certificates based on the Department's suggested format provided in Rule 12A-1.039, F.A.C., effective 12-13-94, as well as exemption affidavits, exemption certificates, copies of Consumer's Certificates of Exemption, Transaction Authorization Numbers, Vendor Authorization Numbers, and other documentation required under the provisions of this rule, other rule sections of Rule Chapter 12A-1, F.A.C., or suggested in Taxpayer Information Publications, until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S. Electronic storage by the selling dealer of the required affidavits, certificates, or other documentation through use of imaging, microfiche, or other electronic storage media will be sufficient compliance with the provisions of this subsection.

Specific Authority ~~212.07(4)(b)~~, 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented ~~95.091(3)~~, 120.57(1),(2), 120.60(3), 120.80(14), 212.02(14)(c), 212.05(1)(i)(d), ~~212.06(1)(c)~~, 212.07(1), 212.08(6)(7), ~~212.084~~, 212.085, ~~212.13(5)(e)~~, 212.18(2), (3), 212.21(2), ~~213.053(7)(b)~~ FS. History—Revised 10-7-68, 6-16-72, Amended 9-28-78, 7-20-82, 4-29-85, Formerly 12A-1.38, Amended 8-10-92, 3-17-93, 9-14-93, 12-13-94, _____.

(Substantial rewording of Rule 12A-1.039 follows. See Florida Administrative Code for present text.)

12A-1.039 Sales for Resale Suggested Forms.

(1)(a) It is the specific legislative intent that each and every sale, use, storage, consumption, or rental is taxable, unless such sale, use, storage, consumption, or rental is specifically exempt. The exempt nature of the transaction must be established by the selling dealer.

(b) A sale for resale is exempt from the tax imposed by Chapter 212, F.S., only when the sale for resale is in strict compliance with the provisions of this rule. For purposes of this rule, a "sale for resale" includes the following sales, leases, or rentals when made to a person who is an active registered dealer. This is not intended to be an exhaustive list.

1. The sale of tangible personal property to a dealer when such property will be resold to the dealer's customers.

2. The sale, lease, or rental of tangible personal property to a dealer when such property will be held exclusively for leasing or rental purposes, pursuant to Rule 12A-1.071(2)(a), F.A.C.

3. The sale of taxable services identified in Rule 12A-1.0161(1), F.A.C., to a dealer when such services are being resold to the dealer's customers under the conditions stated in Rule 12A-1.0161(4), F.A.C.

4. The lease or rental of real property to a dealer when such property will subsequently be leased, rented, or licensed by the dealer's tenants.

5. The sale of tangible personal property to a dealer when such property will be incorporated as a material, ingredient, or component part of tangible personal property that is being produced for sale by manufacturing, processing, or compounding.

6. The sale of inserts of printed materials that are distributed as a component part of a newspaper or magazine, as provided in s. 212.05(1)(h), F.S.

7. The sale of tangible personal property to a repair dealer, when such property will be incorporated into and sold as part of a repair of tangible personal property by such dealer.

8. The alteration, remodeling, maintenance, adjustment, or repair of tangible personal property (when labor and materials are provided) that is held in inventory for resale or exclusively for leasing purposes by a dealer.

(c) For purposes of this rule, "active registered dealer" means a person who is registered with the Department as a dealer for sales tax purposes and who is required to file a sales and use tax return during each applicable reporting period, as provided in s. 212.11(1), F.S.

(2) ANNUAL RESALE CERTIFICATES ISSUED BY THE DEPARTMENT.

(a) For each calendar year, the Department of Revenue will issue to each active registered dealer an Annual Resale Certificate (form DR-13). A newly registered dealer will receive a Sales and Use Tax Certificate of Registration (form DR-11) and an Annual Resale Certificate. The business name and location address, the registration effective date, and the certificate number will be indicated on the Annual Resale Certificate.

(b) Dealers who lose their Annual Resale Certificate may request a replacement by contacting the Department at 1-800-352-3671. Persons with hearing or speech impairments may call the Department's TDD, at 1-800-367-8331. Written requests should be addressed to Central Registration, Florida Department of Revenue, 5050 West Tennessee Street, Building E, Tallahassee, Florida 32399-0100.

(3) Except as provided in subsection (4), a dealer making a sale for resale is required to document the exempt sales by CHOOSING ONE of the following three methods:

(a) COPIES OF ANNUAL RESALE CERTIFICATES OBTAINED BY THE SELLING DEALER. Prior to making a tax exempt sale for the purposes of resale, the selling dealer must obtain a copy of the purchaser's current Annual Resale Certificate, or a Transaction Resale Authorization Number or Vendor Resale Authorization Number issued by the Department.

1. The copy of the Annual Resale Certificate must be signed by the purchaser or the purchaser's authorized representative.

2. A selling dealer may make sales for resale to a purchaser whose current Annual Resale Certificate is on file without seeking a new Annual Resale Certificate for each subsequent transaction during that calendar year. A new Annual Resale Certificate must be obtained each calendar year. Except for sales made to purchasers who purchase on account from the dealer on a continual basis, a selling dealer may only make exempt sales for resale to purchasers during the calendar year for which the purchaser's Annual Resale Certificate appears valid on its face.

3. For sales made to purchasers who purchase on account from a dealer on a continual basis, the selling dealer may rely upon the Annual Resale Certificate beyond the expiration date of the certificate and is not required to obtain a new Annual Resale Certificate each calendar year. For purposes of this paragraph, the phrase "purchase on account from a dealer on a continual basis" means that the selling dealer has a continuing business relationship with a purchaser and makes recurring sales on account to that purchaser in the normal course of business. For purposes of this paragraph, a sale "on account" refers to a sale where the dealer extends credit to the purchaser and records the debt as an account receivable, or where the dealer sells to a purchaser who has an established cash or C.O.D. account, similar to an "open credit account." For purposes of this paragraph, purchases are made from a selling dealer on a "continual basis" if the selling dealer makes sales to the purchaser no less frequently than once in every twelve month period in the normal course of business.

(b) TRANSACTION RESALE AUTHORIZATION NUMBER ISSUED AT POINT-OF-SALE – VALID FOR SINGLE TRANSACTION ONLY. Prior to making a tax exempt sale for the purposes of resale, the selling dealer may obtain a Transaction Resale Authorization Number from the Department in lieu of obtaining a copy of an Annual Resale Certificate from the purchaser or a Vendor Resale Authorization Number from the Department.

1. A "transaction resale authorization number" must be obtained by the selling dealer at the point-of-sale through use of an automated nationwide toll-free telephone verification system. The nationwide toll-free number to access the system is 1-877-357-3725.

2. The selling dealer must key in the purchaser's sales tax certificate of registration number through use of a touch-tone phone. The system will either issue a 13 digit transaction resale authorization number or alert the selling dealer that the purchaser does not have a valid resale certificate. Callers who do not have a touch-tone phone will be connected to a live operator. Persons with hearing or speech impairments may call the Department's TDD, at 1-800-367-8331.

3. A transaction resale authorization number is not valid to exempt subsequent resale purchases or rentals made by the same purchaser. A selling dealer must obtain a new transaction resale authorization number for each and every resale transaction.

4. The selling dealer must document the transaction resale authorization number on the sales invoice, purchase order, or a separate form that is prepared by either the purchaser or the selling dealer. The sales invoice, purchase order, or separate form must contain the following statement: "The purchaser hereby certifies that the property or services being purchased or rented are for resale." This statement must be followed by the signature of the purchaser. The signature may be obtained by the selling dealer through use of an electronic signature pad or other electronic method.

5. Alternatively, in lieu of meeting the requirements of subparagraph 4., the transaction resale authorization number may be documented on a properly completed Uniform Sales and Use Tax Certificate-Multijurisdiction, as provided in subsection (8) of this rule.

(c) VENDOR RESELL AUTHORIZATION NUMBER FOR REGULAR CUSTOMERS WHO HAVE PREVIOUSLY SUBMITTED DOCUMENTATION TO THE SELLING DEALER – VALID FOR CALENDAR YEAR ISSUED. Prior to making a tax exempt sale for the purposes of resale, the selling dealer may obtain a Vendor Resale Authorization Number from the Department, in lieu of obtaining a Transaction Authorization Number or a copy of the purchaser's Annual Resale Certificate. This option is available to selling dealers throughout the calendar year without limitation.

1. The "Vendor Resale Authorization Number" is a customer-specific authorization number that will be valid for all sales for resale made to a particular customer during the calendar year.

2. To obtain vendor resale authorization numbers, the selling dealer must send to the Department, using an electronic medium, a list of the dealer's regular customers for which the dealer has a resale certificate number or outdated Annual Resale Certificate on file. The request may be submitted on form DR-600013, Request for Verification that Customers are Authorized to Purchase for Resale, or by providing the following information: date of request; name of the dealer's business; return address; name and telephone number of a contact person. The written request, or completed form

DR-600013, should be forwarded to: Florida Department of Revenue, Production Control, G30 Carlton Building, Tallahassee, Florida 32399-0100. The electronic format for sending the customer data is provided in form DR-600013 and may be obtained from the Department's web site at <http://sun6.dms.state.fl.us/dor/> or by calling the Department at 850-488-3516. In response to this request, the Department will issue to the selling dealer, using the same electronic medium, a list containing a unique vendor resale authorization number for each customer who is an active registered dealer.

3. The selling dealer may make exempt sales for resale to a customer during the period in which the vendor resale authorization number for that customer is valid. Vendor resale authorization numbers are valid for the remainder of the calendar year during which they are issued. However, vendor resale authorization numbers issued by the Department in November or December shall be valid for the remainder of the current calendar year and the next calendar year.

(4) SALES OF ALCOHOLIC BEVERAGES AND CERTAIN MOTOR VEHICLES; SALES TO OUT-OF-STATE DEALERS.

(a) The sale of alcoholic beverages by distributors licensed by the Division of Alcoholic Beverage and Tobacco, Department of Business and Professional Regulation, to others who are also licensed by the Division of Alcoholic Beverage and Tobacco, Department of Business and Professional Regulation, are deemed to be sales for resale. The distributors are not required to meet the documentation requirements provided in subsection (3) of this rule.

(b) The sale of motor vehicles or recreational vehicles through a motor vehicle auction licensed by the Department of Highway Safety and Motor Vehicles, pursuant to s. 320.27(1)(c)4., F.S., to other motor vehicle dealers licensed by the Department of Highway Safety and Motor Vehicles under s. 320.27(2), F.S., are deemed to be sales for resale. The motor vehicle auction is not required to meet the documentation requirements provided in subsection (3) of this rule.

(c) A sale to a nonresident dealer who is not required to be registered in this state for resale outside this state is governed by Rule 12A-1.064(2)(b), F.A.C., or Rule 12A-1.007(6), F.A.C. However, blanket resale affidavits from out-of-state motor vehicle dealers are acceptable in lieu of individual affidavits in Rule 12A-1.007(6), F.A.C., for each sale of each motor vehicle to such out-of-state motor vehicle dealers.

(5) BURDEN OF ESTABLISHING EXEMPT NATURE OF SALES FOR RESELL.

(a) A selling dealer who makes a sale for resale in good faith, and who complies with the requirements of subsections (3) and (4) of this rule, has met the burden of proof for establishing the exempt nature of the sale, and is relieved from any liability for tax due on that sale. Submission of copies of Annual Resale Certificates to the Department that are obtained after the sale from purchasers who were active registered

dealers at the time of the sale will be considered sufficient compliance with subsection (3) when submitted during audit or protest, but will not be acceptable if submitted during any proceeding under Chapter 120, F.S. or in any circuit court action under Chapter 72, F.S.

(b)1. A sale that is not in compliance with the requirements of subsections (3) and (4) of this rule is presumed to be a retail sale, and the selling dealer will be liable for any applicable sales tax not collected and remitted on that sale.

2. For a sale that is not in compliance with the requirements of subsections (3) and (4), but that is made to a person who was an active registered dealer at the time of the sale, the presumption that the sale is a retail sale can be overcome during an audit or protest if:

a. The selling dealer makes a reasonable attempt to obtain a signed Annual Resale Certificate from the purchaser, but is unable to do so; and

b. It would be reasonable to assume, based on the nature of the purchaser's business, that the sale was for resale.

3. A sale made to a person who was not an active registered dealer at the time of the transaction is a retail sale, and can never be considered a sale for resale. However, a selling dealer who accepts an Annual Resale Certificate that appears valid on its face will not be held liable for any tax due on this transaction, if it is later determined that the purchaser was not an active registered dealer at the time of the transaction.

(6) RECORDS REQUIRED. Resale certificates created and issued by purchasers that were based on the Department's suggested format provided in Rule 12A-1.039, F.A.C., effective 12-13-94, are valid only for the purpose of documenting sales for resale made prior to February 1, 2000. The selling dealer must also maintain copies of receipts, invoices, billing statements, or other tangible evidence of sales, copies of Annual Resale Certificates and other certificates, and Vendor Resale Authorization and Transaction Authorization Numbers until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S. Electronic storage by the selling dealer of the copy of the Annual Resale Certificate or other required documentation through use of imaging, microfiche, or other electronic storage media will be sufficient compliance with the provisions of this subsection.

(7) PROVISIONS APPLICABLE TO PERSONS CLAIMING THE RESALE EXEMPTION.

(a) Annual Resale Certificates may only be used by purchasers who hold a valid Sales and Use Tax Certificate of Registration (form DR-11) issued by the Department, and whose registration status is currently active. For dealers who have been in business for less than the full calendar year, the effective date of the Annual Resale Certificate (form DR-13) will be the postmark or hand delivered date of the Sales and Use Tax Application for Certificate of Registration. The

effective date is found in the block labeled "Registration Effective Date" on the Sales and Use Tax Certificate of Registration (form DR-11).

(b) A dealer whose Sales and Use Tax Certificate of Registration has been revoked or whose registration status has been inactivated or canceled by the Department is prohibited from purchasing, leasing, or renting taxable property or services for the purposes of resale exempt from tax. However, a selling dealer who accepts an Annual Resale Certificate that appears valid on its face will not be held liable for tax on this transaction, if it is later determined that the purchaser was not an active registered dealer at the time of the transaction.

(c) A purchaser who files returns on a consolidated basis (80 code) may extend, and the selling dealer may accept, a copy of the Annual Resale Certificate bearing the purchaser's consolidated sales tax registration number (80 code number), in lieu of extending a copy of the Annual Resale Certificate for each active location that is reported under the consolidated sales tax registration number (80 code number).

(d) For dealers who report sales tax using a county-control number, the Annual Resale Certificate will only be issued to the active reporting number(s) within each county. Dealers who report using a county-control number must use the Annual Resale Certificate issued to the active reporting number(s) to make purchases for resale, except dealers who file returns under a consolidated sales and use tax registration number (80 code). Sales tax numbers issued to the individual locations within a county are inactive, and will not be issued an Annual Resale Certificate.

(e) Wholesalers and certain other sales tax dealers who are currently on an inactive reporting status will need to contact the Department at 800-352-3671 (Florida only) or 850-488-6800 (outside Florida) to have their sales tax registration number activated in order to obtain the Annual Resale Certificate and make exempt purchases for resale. By activating the sales tax registration number, the dealer will then be required to file a sales tax return during each applicable reporting period, as provided in s. 212.11(1), F.S.

(f) Purchasers who are holders of a Direct Pay Permit, Temporary Tax Exemption Permit, or other permits or exemption certificates issued pursuant to Chapter 212, Florida Statutes, are not required to extend or provide copies of their Annual Resale Certificate to the selling dealer to make tax exempt purchases authorized under the Direct Pay Permit, Temporary Tax Exemption Permit, or other exemption certificates or permits issued pursuant to Chapter 212, F.S.

(g) Purchasers of vessels and parts thereof used to transport persons or property in interstate or foreign commerce must complete the affidavit as required in Rule 12A-1.064(5), F.A.C.

(h) A person who complied with the provisions of this rule when making a purchase or rental of tangible personal property that is intended for resale, but then uses, consumes, distributes,

or stores for use or consumption in this state, the tangible personal property in a manner inconsistent with the purposes described in paragraph (1)(b) of this rule, is required to pay use tax as provided in s. 212.05(1)(b), F.S.

(i) Any person who, for the purpose of evading tax, uses an Annual Resale Certificate or signs a written statement claiming an exemption from sales tax knowing that tax is due on the property or services at the time of purchase or rental, is subject to the civil and criminal penalties provided in s. 212.085, F.S.

(j) The resale exemption shall also apply to the importation of tangible personal property into this state for resale in this state. A dealer who imports tangible personal property into this state for resale must be an active registered dealer at the time the property is imported into this state to meet the resale exemption requirements. The determination whether a particular item of tangible personal property imported into this state is for resale is based on the same criteria described in paragraph (1)(b) of this rule.

(8) USE OF UNIFORM SALES AND USE TAX CERTIFICATE-MULTIJURISDICTION. The Department will allow purchasers to use the Multistate Tax Commission's Uniform Sales and Use Tax Certificate-Multijurisdiction. However, the use of this uniform certificate must be in conjunction with the telephonic or electronic authorization number method described in paragraph (3)(b) or (c) of this rule.

Specific Authority 212.07(1)(b), 212.17(6), 212.18(2), 213.06 (1) FS. Law Implemented 95.091(3), 212.02(14), 212.05(1)(b),(i), 212.06(1)(b), 212.07(1)(b), 212.08(2),(5)(a),(6),(7)(e),(9), 212.085, 212.13(5)(c),(d), 212.17(6), 212.18(2), (3), 212.21(2), 213.053(10) FS., ss. 21, 22, 23, 24, Ch. 99-208, L.O.F. History-Revised 10-7-68, 1-7-70, 6-16-72, 9-26-77, Amended 7-20-82, 4-12-84, Formerly 12A-1.39, Amended 1-2-89, 9-14-93, 12-13-94,

12A-1.097 Public Use Forms.

(1) No change.

<u>Form Number</u>	<u>Title</u>	<u>Effective Date</u>
(2) through (4)	No change.	
(5)(a) DR-5	<u>Sales and Use Tax Application for Consumer's Consumer Certificate of Exemption (r. 10/99 N. 09/87)</u>	08/92
(b) DR-5N	<u>Information and Instructions for Completing Application for Consumer's Certificate of Exemption (r. 10/00)</u>	
(b) DR-5R	<u>Renewal Application for Consumer Certificate of Exemption (r. 04/88)</u>	08/92
(6) through (27)	No change.	
(28) DR-600013	<u>Request for Verification that Customers are Authorized to Purchase for Resale (N. 01/00)</u>	

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.17(6), 212.18(2),(3) FS. History-New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00.

DEPARTMENT OF REVENUE

Sales and Use Tax

<u>RULE TITLES:</u>	<u>RULE NOS.:</u>
Manufacturing	12A-1.043
Sales to or by Contractors Who Repair, Alter, Improve and Construct Real Property	12A-1.051
Electric Power and Energy	12A-1.053
Fuels	12A-1.059
Rentals, Leases, and Licenses to Use Transient Accommodations	12A-1.061

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.043, F.A.C., Manufacturing, is to: (1) incorporate the legislative changes to s. 212.07, F.S., that require dealers who purchase items for the purposes of resale to extend a copy of their Annual Resale Certificate to make tax exempt purchases; (2) provide that dealers who do not sell tangible personal property are not required to register as dealers and may extend an exemption certificate, as provided in Rule 12A-1.038, F.A.C., as amended, to purchase tax exempt items purchased for the purpose of manufacturing, producing, compounding, processing, or fabricating items of tangible personal property for their own use or consumption; and (3) provide a technical correction to properly reference Rule 12A-1.051(12), F.A.C., where guidelines for use tax due on asphalt manufactured for one's own use are provided.

The purpose of the proposed amendments to Rule 12A-1.051, F.A.C., Sales to or by Contractors Who Repair, Alter, Improve and Construct Real Property, is to: (1) provide that dealers are required to issue a copy of their Annual Resale Certificate to make tax exempt purchases for the purposes of resale; (2) provide reference to Rule 12A-1.038, F.A.C., as amended, for sales made to entities that hold a valid Consumer's Certificate of Exemption; and (3) incorporate the provisions of s. 4, Chapter 2000-276, L.O.F., which extends to corporations and affiliated groups the exclusion from the requirement to pay use tax on rock, shell, fill dirt, or similar materials that are secured from the property owned by the corporation and used on property owned by the corporation or a corporate member of the corporation's affiliated group.

The purpose of the proposed amendments to Rule 12A-1.053, F.A.C., Electric Power and Energy, is to: (1) provide guidelines for when the sale of electricity to be used in residential households, to owners of residential models, and to licensed family day care homes are exempt from tax; (2) provide guidelines for when a utility will be held liable for tax exempt sales of electricity that is used for a non-exempt purpose; and (3) remove obsolete provisions regarding imposition of obsolete tax rates.

The purpose of the proposed amendments to Rule 12A-1.059, F.A.C., is to: (1) change the title to "Fuels" to reflect the removal of provisions for the sale of lubricants that are unnecessary; (2) provide guidelines regarding documentation requirements for dealers who make tax exempt sales of fuels used in residential households, to owners of residential models, and to licensed family day care homes that are exempt from tax; (3) provide guidelines for when a dealer will be held liable for tax exempt sales of fuel that is used for a non-exempt purpose; (4) remove obsolete provisions regarding the sale of motor fuel and special fuel that are provided in ss. 206.87(3)(f) and 212.0501, F.S., as amended, and Rule 12B-5.130(2), F.A.C.; (5) provide guidelines for the exemption provided for boiler fuels, including a suggested exemption certificate to be issued by the purchaser to purchase boiler fuels tax exempt; (6) remove redundant provisions regarding the sale of fuels and other items subject to the proration provisions in Rule 12A-1.064, F.A.C.; (7) remove redundant provisions regarding the sale of fuels used to generate electrical power or energy that are provided in Rule 12A-1.053, F.A.C.; and (8) remove examples of lubricants and other items for which an administrative rule to provide that the sale of tangible personal property is taxable is unnecessary.

The purpose of the proposed amendments to Rule 12A-1.061, F.A.C., Rentals, Leases, and Licenses to Use Transient Accommodations, is to: (1) provide that, to qualify for the exemption provided for military personnel on active duty and present in the community under official orders, the dealer may obtain a copy of an overflow certificate or a copy of the official orders of the purchaser; (2) correct the reference to exemption certificates for purchases of transient accommodations made by government employees and representatives of exempt organizations that will be provided in Rule 12A-1.038, F.A.C., as amended; (3) remove the unnecessary repetition of record keeping requirements from subsection (13) that are provided in subsection (19) of the rule; and (4) clarify that exemption certificates are required to be maintained in a dealer's books and records.

SUBJECT AREA TO BE ADDRESSED: The purpose of this rule development workshop is to provide an opportunity for the public comment regarding these proposed amendments to Rules 12A-1.043, 12A-1.051, 12A-1.053, 12A-1.059, and 12A-1.061, F.A.C.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS.
LAW IMPLEMENTED: 92.525(1)(b), 212.02(2),(4),(7), (10)(a)-(g),(16),(19),(21), 212.03(1),(2),(3),(4),(5),(7), 212.031, 212.04(4), 212.05, 212.052, 212.06(1),(3), (14),(15)(a), 212.07(1),(8), 212.08(4),(6),(7)(b),(i),(j),(m),(o), 212.11(1),(2), 212.12(7),(9),(12), 212.13(2), 212.14(5), 212.18(2),(3), 212.183, 213.37, 213.756, 366.051 FS.

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

TIME AND DATE: 10:00 a.m., February 14, 2001

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0100

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 at (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:

12A-1.043 Manufacturing.

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

(d) Persons who manufacture, produce, compound, process, or fabricate items of tangible personal property for resale or for their own use or consumption may purchase direct materials tax exempt but shall include the cost of the direct materials when computing tax on the cost of the items so manufactured, produced, compounded, processed, or fabricated for such persons' own use or consumption. If tax has been paid on the direct materials, the method described in paragraph (c) should be used when computing the tax on the cost of the items so manufactured, produced, compounded, processed, or fabricated.

(e)1. To purchase direct materials tax exempt, dealers registered with the Department to sell tangible personal property may extend a copy of their Annual Resale Certificate (form DR-13) to the selling dealer in lieu of paying tax at the time of purchase. The cost of such materials is subject to tax on the cost of the items so manufactured, produced, compounded, processed, or fabricated, as provided in paragraph (d).

2. Persons who do not sell tangible personal property are not required to register with the Department as a dealer. However, to purchase direct materials tax exempt, such persons may extend an Exemption Certificate, as provided in Rule 12A-1.038, F.A.C., to the selling dealer in lieu of paying tax at the time of purchase. The cost of such materials is subject to tax on the cost of the items so manufactured, produced, compounded, processed, or fabricated, as provided in paragraph (d).

(f)(e) No change.

(2) through (3) No change.

(4) Any person who manufactures asphalt for his own use shall calculate and remit the use tax on such asphalt, as provided in Rule 12A-1.051(12)(6), F.A.C.

(5) through (6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), (7), 212.052, 212.06(1), 212.12(12), 366.051 FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 1-19-74, 12-26-83, Formerly 12A-1.43, Amended 1-2-89, 2-28-90, 3-20-96, 7-27-99.

12A-1.051 Sales to or by Contractors Who Repair, Alter, Improve and Construct Real Property.

(1) through (4) No change.

(5) Rule for (3)(d) contractors. Contractors who perform retail sale plus installation contracts described in paragraph (3)(d); do sell tangible personal property. They should register as dealers and provide a copy of their Annual Resale Certificate (form DR-13) to the selling dealer to purchase tax exempt resale certificates for materials that are itemized and resold under paragraph (3)(d) contracts. They should not provide the certificate to purchase tax exempt resale certificates for items that they use themselves rather than reselling, such as hand tools, shop equipment, or office supplies. They must charge their customers tax on the price paid for tangible personal property, unless a valid exemption certificate is provided, but not on the charges for installation labor. See Rule 12A-1.038, F.A.C., for tax exempt sales made to entities that hold a valid Consumer's Certificate of Exemption.

(6) through (8)(a) No change.

(b) If the predominant nature of a mixed contract is a contract for tangible personal property, taxability of the contract will be determined as if the contract were entirely for tangible personal property. For example, a vendor of a mechanical conveyor system for a warehouse provides reinforced concrete foundations and embeds steel plates in the concrete to permit installation of the equipment by bolting it to the plates. The contract is predominantly for the sale of equipment. The contractor should buy the equipment, concrete, and steel plates tax exempt by extending a copy of the contractor's Annual Resale Certificate (form DR-13) to the selling dealer using a resale certificate and charge tax on the full price charged to the customer.

(c) No change.

(d) If a mixed contract clearly allocates the contract price among the various elements of the contract, and such allocation is bona fide and reasonable in terms of the costs of materials and nature of the work to be performed, taxation will be in accordance with the allocation. For example, a residential developer builds and sells a home on a cost plus basis, but the contract provides separately stated prices for the sale and installation of certain optional free standing appliances that are tangible personal property and are not classified as real

property fixtures. The contractor may purchase those appliances by issuing a copy of the contractor's Annual Resale Certificate (form DR-13) to the selling dealer using a resale certificate and charge sales tax on the price paid for the appliances, including installation, by the home buyer. The contractor is responsible for paying tax on all the materials that are included in the cost plus price of the home, other than the separately itemized appliances. Similarly, a manufacturer who sells and installs a mechanical conveyor system in a warehouse could state a separate charge in the contract for providing reinforced concrete with embedded steel plates in the warehouse floor to support the conveyor. The conveyor system is machinery or equipment and is therefore tangible personal property. The concrete and plates would be considered a real property improvement. The contractor should pay tax on the materials used for the real property part of the contract and not charge tax to the customer on the related charge. The customer should pay tax on the rest of the contract price allocable to the conveyor machinery itself.

(e) This subsection does not affect any exemption provided in Chapter 212, F.S., for machinery or equipment that may be claimed by a contractor based on a temporary tax exemption permit, affidavit, or other authorized certification by the owner of real property. For example, purchases of certain equipment for generating electrical power or of certain machinery for manufacturing tangible personal property for sale are exempt from sales and use taxes. In order for the property owner to receive the benefit of these exemptions, it has been specifically provided that contractors who purchase and install the exempt items may claim the exemption based on the property owner's providing the required documentation of entitlement. The guidelines on mixed contracts are not intended to impact these exemptions. In the case of a mixed contract that is treated as a real property contract, the contractor is still entitled to purchase the qualified equipment or machinery tax-exempt. In the case of a mixed contract treated as a sale of tangible personal property, the contractor would purchase the equipment or machinery by issuing a copy of the contractor's Annual Resale Certificate (form DR-13) to the selling dealer using a resale certificate and accept the property owner's authorized documentation of exemption in lieu of charging tax on the subsequent sale of the equipment or machinery to the property owner. See Rule 12A-1.038, F.A.C., for tax exempt sales made to entities that hold a valid Consumer's Certificate of Exemption.

(9) Dual operators. Some contractors both use materials themselves in the performance of contracts and resell materials either in over-the-counter sales or under contracts described in paragraph (3)(d). Those contractors should register as dealers. When they purchase materials that they may either use themselves or that they may resell, they may issue a copy of the contractor's Annual Resale Certificate (form DR-13) to the selling dealer resale certificate. Florida tax should be remitted when a subsequent event determines the appropriate taxation

of the materials. If the materials are subsequently resold, tax should be collected from the buyer and remitted to the state. If the materials are used by the contractor, use tax should be paid to the state ~~State~~ instead.

(10) through (12) No change.

(13) Use tax on rock, shell, fill dirt, or similar materials. A real property contractor is taxable on the cost of rock, shell, fill dirt, or similar materials the contractor uses to perform a real property contract for another person.

(a) If the contractor acquires the materials from a location the contractor owns or leases, the contractor must remit use tax based on one of the following methods:

1. The fair retail market value, which means either the price the contractor would have to pay on the open market or the price at which the contractor would sell the materials to third parties; or

2. The cost of the land plus all costs of clearing, excavating, and loading the materials, including labor, power, blasting, and similar costs.

(b) If the contractor purchases the materials and as part of the agreement excavates and removes them from the seller's land (including state-owned submerged land), the taxable cost is the purchase price paid to the seller plus all the costs incurred by the contractor in clearing, excavating, and removing the materials, including labor.

(c) When rock, shell, fill dirt, or similar materials are secured from a location owned by the contractor for use on his or her own property, the contractor does not owe tax on these materials. For purposes of this paragraph, a contractor that is a corporation is considered to own any location that is owned by any corporation in the same affiliated group as the contractor. "Affiliated group" shall have the meaning provided in s. 220.03(1), F.S.

~~(d)~~(e) A contractor on a road project owes no tax on borrow materials that are provided at no charge by the Department of Transportation, including materials extracted from pits that are provided at no charge by that department.

(14) through (19) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4),(7),(16),(19),(21), 212.06(1),(14),(15)(a), 212.07(1),(8), 212.08(6), 212.14(5), 212.183 FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 2-3-80, 3-27-80, 6-3-80, 8-26-81, 11-15-82, 6-11-85, Formerly 12A-1.51, Amended 1-2-89, 8-10-92, 7-27-99, 3-30-00,_____.

12A-1.053 Electric Power and Energy.

(1)(a) ~~The sale of electric power or energy by a utility private or public utilities and rural electric cooperative associations is taxable. The sale of electric~~ Electric power or energy is exempt when it is separately metered and sold for use in residential households, to owners of residential models, or to licensed family day care homes (including trailer lots) direct to the actual consumer by utilities who are required to pay the gross receipts tax imposed by chapter 203, F.S., is exempt ~~Section 203.01, Florida Statutes. Such electric power or energy~~

~~is exempt, even though metered and billed direct to the landlord (master metered). However, if any part of the electric power or energy utility or fuel is used for a non-exempt purpose, the entire sale is subject to tax taxable. Landlords shall provide separate meters for non-exempt consumption of electric power and energy. This exemption shall also apply to electric power or energy sold to residents when separately metered and billed direct to them. Electric power or energy used in residential model homes or common areas of apartments, cooperatives and condominiums is exempt provided that none of the electric power or energy is used in residential model homes which are used as sales offices or for other non-exempt purposes. Hotels and motels cater primarily to transient guests and are not considered to be residential households. Therefore, this exemption shall not apply to electric power or energy sold for use in hotels and motels.~~

(b) A utility is not obligated to collect and remit tax on any sale of electric power or energy when all of the following factors are present:

1. The property to which the electric power or energy is sold is coded "residential," based on tariffs filed by the utility with the Public Service Commission.

2. The utility has on file a writing or document evidencing a representation of the utility's customer that the electric power or energy is being purchased for exclusive residential household use, including licensed family day care homes. The writing or document may be a customer application, a certificate, or a series of billing statements to the customer that identifies the customer as holding a residential account and provides the customer a means to correct its classification if any of the electric power or energy is used for business or commercial purposes. A commercial or business purpose does not include gas or fuel used in a licensed family day care home.

3. The utility must have acted in good faith in accepting the representation of the customer.

(c) Tax is due on electric power or energy purchased by a customer tax exempt for the purposes of residential household use that does not qualify for such exemption. In such instances, if the utility complies with the requirements of paragraph (b), the Department will look to the customer for any applicable tax, penalty, or interest due. The Department will look to the utility for any applicable tax, penalty, or interest due when the utility's books and records indicates a failure to comply with the requirements of paragraph (b) or the utility has erroneously classified a business or commercial customer as a residential customer or as a licensed family day care home.

~~(b) Effective May 1, 1982, the sale or use of electric power or energy that is subject to tax shall be taxed at the rate of 5 percent in lieu of the former rate of 4 percent. If a customer is billed for electric power or energy for a cycle ending on or after May 1, 1982, the 5 percent tax rate is applicable on the entire taxable transaction even though the billing may have~~

been for electrical services received prior to May 1, 1982. Where no cycle date appears on the billing, the billing date will control the rate of tax applicable.

(2) through (3) No change.

(4) Effective June 1, 1982, the provision under 166.231(3), F.S., which provided that the municipal tax on electricity shall not be levied and collected on the first 50 kilowatt hours per month for residential use has been eliminated. Therefore, if a utility has a billing cycle which begins in May and ends in a subsequent month, the utility may deduct from their sales tax collects an amount equal to the municipal tax loss on the sale of electricity to residential customers. If a utility's billing cycle begins in June, the utility shall not deduct from their sales tax collections an amount equal to the municipal tax loss on the sale of electricity to residential customers.

(4)(5) No change.

Specific Authority 212.17(6), 212.18(2), 213.06 FS. Law Implemented 212.02(2),(19), 212.05(1)(e), 212.06(1)(a),(b),(2), 212.08(4),(7)(j), 212.18(2) FS. History—Revised 10-7-68, 6-16-72, Amended 12-11-74, 10-18-78, 6-3-80, 12-23-80, 7-20-82, Formerly 12A-1.53, Amended _____.

12A-1.059 Fuels and Lubricants.

(1)(a) ~~The sale of fuel, including crude oil, fuel oil, kerosene, sterno, diesel oil, natural and manufactured gas, coke, charcoal briquets, cord wood, and other fuel products is taxable. The sale of natural or Natural and manufactured gas, such as butane, propane, and all other forms of liquefied petroleum (L.P.) gas, is exempt when separately metered and sold for use in residential households, to licensed family day care homes, or (including trailer lots) directly to owners of residential models the actual consumer by utilities who are required to pay the gross receipts tax imposed by Chapter 203, F.S., is exempt Section 203.01, Florida Statutes. The sale of exemption for residential households (including trailer lots) also includes L.P. gas, crude oil, fuel oil, kerosene, diesel oil, coke, charcoal briquets, cord wood, and other household fuels for the purposes of heating, cooking, lighting, and refrigeration in residential households, to owners of residential models, or to licensed day care homes is exempt. However, Such sales of utilities and fuels are exempt regardless of whether such sales are billed to the landlord; provided, however, that if any part of the utility or fuel is used for a non-exempt purpose, the entire sale is subject to tax taxable. Landlords shall provide separate meters for any non-exempt consumption of utilities or fuels. This exemption shall also apply to the sale of utilities and fuels used in residential model homes or common areas of apartments, cooperatives and condominiums provided that none of the utilities or fuels are used in residential model homes which are used as sales offices or for other non-exempt purposes. No exemption certificate or affidavit is required to be obtained by a dealer of special fuel or a dealer of liquefied petroleum gases when the fuel is sold and delivered into the customer's storage facility located on the customer's residential premises, when the fuel is for the purposes of home cooking or~~

home heating. Hotels and motels cater primarily to transient guests and are not considered to be residential households. Therefore, this exemption shall not apply to utilities or fuels sold for use in hotels and motels.

(b) Any dealer who sells manufactured gas that is delivered to the customer's storage facility located on the customer's residential premises to be used for home heating or cooking is not obligated to collect and remit tax or obtain a certificate from the customer. However, the dealer must document on the customer's delivery ticket, sales invoice, or billing statement that the fuel being sold and delivered is for the purposes of home heating or cooking.

(c) Any person who sells natural or manufactured gas or other fuels for residential household purposes or for use in a licensed family day care home, but does not deliver the gas or fuel directly to a storage facility located on the customer's residential premises, is not obligated to collect and remit tax on any sale of gas when:

1. The seller has on file a writing or document evidencing a representation of the customer that the natural or manufactured gas or other fuel is being purchased for exclusive residential household use or for use in a licensed family day care home. The writing or document may be a customer application, a certificate, or a series of billing statements to the customer that identifies the customer as holding a residential account and provides the customer a means to correct its classification if any of the fuel is used for business or commercial purposes. A business or commercial purpose does not include gas or fuel used in a licensed family day care home; and

2. The seller must have acted in good faith in accepting the representation of the customer.

(d) Tax is due on any natural or manufactured gas or other fuel purchased by a customer tax exempt for the purposes of residential household use, or for use in a licensed family day care home, that does not qualify for such exemption. In such instances, if the selling dealer complies with the requirements of paragraph (b), the Department will look to the customer for any applicable tax, penalty, or interest due. The Department will look to the selling dealer for any applicable tax, penalty, or interest due when the dealer's books and records indicates a failure to comply with the requirements of paragraph (b) or the dealer has erroneously classified a business or commercial customer as a residential customer or as a licensed family day care home.

(e)(b) ~~The charge~~ Where the amount of the sale exceeds two dollars, and except for the filling of liquefied petroleum (L.P.) gas tanks in excess of twenty pounds, including tanks used in recreational vehicles, is exempt when the L.P. gas will be used by the purchaser for the purposes of residential heating or cooking twenty-pound tanks, the dealer must support his claim for exemption from the tax with a copy of an invoice which contains the date of sale, quantity and description of the

fuel, license number, and state of issue of the travel trailer. Twenty-pound L.P. gas tanks are used exclusively for residential household purposes and the charge for filling of such tanks them with L.P. gas is exempt under the law. The dealer must document on the customer's invoice or other written evidence of sale that the charge is for filling a twenty pound tank, or the gas is sold for the purposes of residential household cooking or heating.

(f) Any person who sells charcoal briquets or cord wood to be used for residential household cooking or heating is not required to obtain a certificate from the purchaser to make tax exempt sales of these items.

~~(2)(a) Motor fuels or special fuels, other than liquefied petroleum gases, on which the tax is imposed by Chapter 206 or by Part II, Chapter 212, F.S., are exempt from the tax imposed by Part I, Chapter 212, F.S. Motor fuels or special fuels exempt from tax under Chapter 206 or Part II, Chapter 212, F.S., are taxable under Part I, Chapter 212, F.S., unless specifically exempted therein.~~

~~(b) Butane gas, propane gas, and all other forms of liquefied petroleum gases are not defined as special fuels under Chapter 212, F.S. Such fuels are taxable under Part I, Chapter 212, F.S., at the rate of 6 percent of the total selling price, unless specifically exempted therein.~~

~~(c) Natural gas and liquefied petroleum gases, when such gases are used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm and no part of which is used in any vehicle or equipment driven or operated on the public highways of this state are exempt. This restriction shall not apply to the movement of farm vehicles or farm equipment between farms.~~

~~(d) Natural gas and liquefied petroleum gases used in the transporting of bees by water and the operating of equipment used in the apiary of a beekeeper are also exempt.~~

~~(e) In order to obtain the exemption on natural gas or liquefied petroleum gases, the purchaser shall furnish the seller a certificate stating that the natural gas or liquefied petroleum gases are used for agricultural purposes.~~

~~(3) All fuels used by public or private utilities, including municipal corporations and rural cooperative associations in the generation of electric power or energy for sale, are exempt.~~

~~(4) Fuels used or consumed in vessels or railroad locomotives which are used to transport persons or property in interstate or foreign commerce are taxable under Part I, Chapter 212, F.S., subject to the provisions contained in Rule 12A-1.064. Fuels, other than liquefied petroleum gases, used or consumed in other vessels or railroad locomotives and any other vehicle including, but not limited to, motor vehicles and aircraft are exempt from tax under Part I, Chapter 212, F.S. However, such fuels are taxable under Part II, Chapter 212, F.S.~~

~~(5) Lubricating oils, including machine oils and thread lubricating oil and greases are taxable, and the tax is due on the total selling price paid by the purchaser, including any other state and federal taxes which are a part thereof.~~

~~(6) The sale of lubricating oils and greases, motor additives, friction proofing oils, solvents, driers, and all other lubricants for use on or by commercial fishing vessels or on or by ships, vessels, aircraft, trucks, and other vehicles is taxable based on the total selling price, including any other state and federal taxes which are a part thereof. (See Rule 12A-1.064, F.A.C., for proration of tax on these items when used in or on vehicles, vessels, or aircraft engaged in interstate or foreign commerce.)~~

~~(7) The entire lump sum charges made for grease jobs, wheel packs, etc., are taxable and are payable by the customer to the dealer.~~

~~(8) Naphtha, mineral spirits and lighter fluids are taxable.~~

~~(9) Liquefied petroleum gas or other fuel used to heat a structure in which starter pullets or broilers are raised is exempt.~~

~~(2)(a)(10) "Boiler" fuels. When purchased as a combustible fuel, purchases of natural gas, residual oil, recycled oil, waste oil, solid waste material as defined in s. 403.703(13), F.S., coal, sulfur, wood, wood residues, or wood bark used in an industrial manufacturing, processing, compounding, or production process at a fixed location in this state is shall be exempt from the taxes imposed by this chapter; provided, however, that this exemption shall not apply to such fuels that are not used in manufacturing, processing, compounding, or producing items of tangible personal property for sale, or to the boiler fuels used by any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business Regulation. For the purpose of this exemption, the term "residual oil" means shall mean ASTM Grades No. 5 and No. 6, heavy diesel, and bunker C. Purchase invoices must indicate the type of residual oil purchased. This exemption does not shall NOT apply to any type of liquefied petroleum gases, naphtha, kerosene, or distillate fuel oil, such as including but not limited to diesel fuels, No. 1 and No. 2 heating oils, and No. 4 fuel oil. The term "fixed location" means shall mean being permanently affixed to one location or plant site, or any portable plant which may be set up for a period of not less than six months in a stationary manner so as to perform the same industrial manufacturing, processing, compounding, or production process that could be performed at a permanent location or plant site. To be entitled to this This exemption at the time of purchase, shall not be allowed, however, unless the purchaser must issue furnishes the seller a certificate stating that the combustible fuel is used in an industrial manufacturing, processing, compounding, or production process. The following is a suggested format of a certificate to be used for this purpose:~~

EXEMPTION CERTIFICATE

BOILER FUELS USED TO PRODUCE TANGIBLE PERSONAL PROPERTY FOR SALE

_____, incorporated in the State of _____, its undersigned officer who is duly authorized, hereby certifies to _____ that purchases of residual oil, recycled oil, waste oil, solid waste material as defined in s. 403.703(13), F.S., coal, sulfur, wood, wood residues, or wood bark under account number _____ will be exclusively used as a combustible fuel in the manufacturing, processing, compounding, or production of tangible personal property for sale. This industrial process is located at _____ in _____, Florida. County of _____. Further, it is certified that _____ is not subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation. The purchase of the combustible fuel pursuant to this certification is exempt from tax, pursuant to s. 212.08(7)(b), F.S.

Dated at _____, Florida, this _____ day of _____.

AUTHORIZED OFFICER OF COMPANY

BY: _____

TITLE: _____

(b) The sale of boiler fuels that are not used in manufacturing, processing, compounding, or producing items of tangible personal property for sale is subject to tax. The sale of boiler fuels used by any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation is subject to tax.

(11) Special fuel may be purchased tax exempt when the fuel is consumed by a power take-off or engine exhaust for the purpose of unloading bulk cargo by pumping or turning a concrete mixer drum used in the manufacturing process or for compacting solid waste by a motor vehicle designed to carry such waste and such vehicles have no separate fuel tank or power unit. An invoice or delivery ticket, which shall be signed by the person operating the motor vehicle, shall be made at the time each motor vehicle is refueled and shall provide accurate information as to the date, the number of gallons placed in the fuel tanks of the motor vehicle, the motor vehicle number, or tag number in the event the motor vehicle is not numbered. All internal records which provide information as to fuel consumption by the concrete mixer trucks, trucks in which bulk cargo is unloaded by pumping, and trucks used to compact solid waste shall continue to be maintained for audit review. In order to purchase the fuel tax exempt, the purchaser:

(a) must obtain a license as a dealer of special fuel and as a sales tax dealer; and

(b) compute the tax on the special fuel consumed by each motor vehicle using a power take-off unit for turning a concrete drum or for compacting solid waste based on the actual number of gallons consumed during the turning or

compacting operation taxable under Part I Chapter 212, F.S., and the remaining gallons taxable under Parts II of Chapters 206 and 212, and Chapter 336, F.S., or on a percentage factor of 65 percent taxable under Parts II of Chapters 206 and 212, and Chapter 336, F.S., and 35 percent taxable under Part I, Chapter 212, F.S.; or

(c) compute the tax on special fuel consumed by each motor vehicle using a power take-off unit or engine exhaust for unloading bulk cargo by pumping based on the actual number of gallons consumed during the pump-off operation or on the industry's standard of 10 gallons per pump-off taxable under Part I Chapter 212, F.S., and the remaining gallons taxable under Parts II of Chapters 206 and 212, and Chapter 336, F.S.

Cross Reference: Rules 12A-1.087 and 12B-5.130(2), F.A.C.

Specific Authority 212.17(6), 212.18(2), 213.06(1), FS. Law Implemented 206.87(3)(f), 212.05, 212.06(3), 212.08(4), (5)(a), (e), (7)(b), (j), FS. History- Revised 10-7-68, 6-16-72, Amended 7-19-72, 12-11-74, 10-18-78, 7-3-79, 6-3-80, 12-23-80, 8-26-81, 12-31-81, 7-20-82, 10-13-83, Formerly 12A-1.59, Amended 12-13-88, 5-19-93, 9-14-93, 3-20-96, _____.

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

(1) through (10) No change.

(11) MILITARY PERSONNEL ON ACTIVE DUTY.

(a) Rental charges or room rates paid by military personnel currently on active duty and present in the community under official orders are exempt. This includes rental charges or room rates for transient accommodations paid by military personnel while traveling to a destination designated by their official orders. The exemption does not include rental charges or room rates for transient accommodations paid by military personnel that are in the community, but are not under official orders to be present in the community.

(b) To qualify for this exemption, military personnel must present either of the following documents to the owner or owner's representative of the transient accommodation:

1. a written declaration stating that he or she is currently serving on active duty in the U.S. Armed Services; and

1.2. a copy of the official orders supporting the active duty status of the military personnel and making it necessary to occupy the transient accommodation; or-

2. A copy of an overflow certificate issued to military personnel on active duty status by any unit of the U.S. Armed Services.

(c) The following is a suggested written declaration to be completed and presented to the owner or owner's representative of the transient accommodation:

The undersigned hereby declares that he or she is currently serving on active duty in the U.S. Armed Services and that it is necessary to reside at the named facility to carry out official orders.

Name and Address of Facility: _____

Name: _____

Rank/Rate: _____ Serial No. _____
Address: _____ (Place of duty) _____
Dated this _____ day
of _____ 19____

(Signature of Military Personnel)

(12) No change.

(13) GOVERNMENTAL EMPLOYEES AND REPRESENTATIVES OF EXEMPT ORGANIZATIONS.

(a) Employees of the federal government or its agencies are exempt from tax on rental charges or room rates for transient accommodations, even though the employee may be reimbursed by the federal government or its agencies, only when:

1. The federal government or its agencies pays the rental charges or room rates directly to the owner or the owner's representative of the transient accommodations or reimburses the employee for the actual rental charges or room rates;

2. The employee does not use the transient accommodations for personal purposes; and

3. The employee provides the owner or the owner's representative of the transient accommodations with the proper documentation. See Rule 12A-1.038(4) ~~12A-1.001(9)(d)1~~, F.A.C., for the ~~information and suggested formats of the~~ proper documentation to be provided by the employee.

(b)1. Employees of governmental units other than the federal government or its agencies (i.e., state, county, city, or any other political subdivision of the State) and authorized representatives of organizations that hold a Consumer's Certificate of Exemption issued by the Department exempt from tax under s. 212.08(7)(m) or (o), F.S., are exempt from tax on rental charges or room rates for transient accommodations only when:

a. The rental charges or room rates are billed directly to and paid directly by the governmental unit or the exempt organization;

b. The employee or representative does not use the transient accommodations for personal purposes; and

c. The employee or representative provides the owner or the owner's representative of the transient accommodations with proper documentation. See Rule 12A-1.038(3) and (4) ~~12A-1.001(9)(d)2~~, F.A.C., for the ~~information and suggested formats of the~~ proper documentation to be provided by the employee or representative.

2. Rental charges or room rates paid with personal funds of any individual representing an exempt organization or of any employee of a governmental unit, other than the federal government or its agencies, are subject to tax, even though the representative may receive an advance or reimbursement from the exempt organization or governmental unit.

~~(e) To exempt rental charges or room rates to government employees and representatives of exempt organizations, the owner or owner's representative of the transient accommodations must maintain a copy of the documents required under paragraphs (a) or (b) in their records until the tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S. Upon request, a copy of the documents must be made available to the Department.~~

(14) through (18) No change.

(19) RECORDS REQUIRED. Any person who collects rental charges or room rates for transient accommodations must maintain adequate records, including copies of all lease or rental agreements, duplicate copies of receipts issued for the payment of rental charges or room rates, and any exemption certificates until the tax imposed by Chapter 212, F.S., may no longer be determined and assessed under s. 95.091(3), F.S. Upon request, records must be made available to the Department.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 92.525(1)(b), 212.02(2),(10)(a)-(g),(16), 212.03(1),(2),(3),(4),(5),(7), 212.031, 212.04(4), 212.08(6), (7)(i),(m),(o), 212.11(1),(2), 212.12(7),(9),(12), 212.13(2), 212.18(2),(3), 213.37, 213.756 FS. History-Revised 10-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, Amended 7-19-72, 4-19-74, 12-11-74, 5-27-75, 10-18-78, 4-11-80, 7-20-82, 1-29-83, 6-11-85, Formerly 12A-1.61, Amended 10-16-89, 3-17-94, 1-2-95, 3-20-96, 11-30-97, 7-1-99,

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Regulation of Overhanging Encroachments

RULE CHAPTER NO.: 14-43

RULE TITLE: Regulation of Overhanging Encroachments

RULE NO.: 14-43.001

PURPOSE AND EFFECT: The title is changed to "Regulation of Overhanging Encroachments" for Rule Chapter 14-43 and for Rule 14-43.001. The rule is reworded and restructured significantly from the August 3, 1999, amendment.

SUBJECT AREA TO BE ADDRESSED: Rule 14-43.001 is amended and the title of the rule is revised.

SPECIFIC AUTHORITY: 334.044(2), 337.407 FS.

LAW IMPLEMENTED: 316.006, 316.0745, 316.077, 316.0775, 334.044, 335.02, 335.14, 337.29, 337.407, 338.237, 479.01, 479.107, 768.28 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 IS: James C. Myers, Administrative and Management Support Level IV, Florida

Department of Transportation, Office of the General Counsel,
605 Suwannee Street, Mail Station 58, Tallahassee, Florida
32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE
DEVELOPMENT IS:

14-43.001 Regulation of Overhanging Encroachments
~~Over State Rights of Way.~~

(1) Definitions.

(a) "Banner" means a ~~temporary encroachment in the form~~ of a length or sheet of cloth, fabric, plastic, or other flexible material bearing a message which may be either of the following:

1. "Pole Banner" means a banner which is located adjacent to the travel lanes of the roadway and is attached to an existing permanent support.

2. "Street Banner" means a banner which extends over the travel lanes of the roadway and is attached to one or more existing permanent supports.

(b) "Canopy" means a permanent or semi-permanent, on-premise roof-like encroachment or projection partially extending over the right of way.

(c) "Department" means the State of Florida Department of Transportation.

(d) "Governmental Entity" has the same meaning as provided in Section 11.45(1)(c), Florida Statutes.

(e) "Local Governmental Entity" has the same meaning as provided in Section 11.45(1)(d), Florida Statutes.

~~(f)~~ (e) "Overhanging Encroachment Sign" for purposes of this rule means a sign, canopy, or banner, as these terms are herein defined, permanent encroachment in the nature of an on-premise advertising display pursuant to Section 479.16, Florida Statutes, which are placed along and extends over the state rights of way which are within municipalities, or which are of curb-and-gutter construction outside municipalities.

(g) "Sign" has the same meaning as provided in Section 479.01(14), Florida Statutes.

(2) Overhanging encroachments are prohibited on the Interstate Highway System. Overhanging encroachments shall be authorized, pursuant to Section 337.407, Florida Statutes, to be placed along and over state roads under the following conditions:

(a) No new supports may be located within state right of way.

(b) Any overhanging encroachment must be allowed by the affected local governmental entity.

(c) Any overhanging encroachment which interferes with Department construction must be adjusted or removed at the owner's expense.

(d) Overhanging encroachments may not obstruct the view of any traffic signal, traffic device, or official sign, nor in any way interfere with motorists' ability to safely operate their vehicles.

(e) Overhanging encroachments must comply with the setback or clearance requirements set forth in (3) and (4) below. The Department will notify the owner if the overhanging encroachment must be adjusted to meet setback or clearance requirements, and, upon failure of the owner to make such adjustment, it shall be removed by the Department. If the overhanging encroachment presents a safety hazard, the Department shall remove it and notify the owner of the removal.

(f) No overhanging encroachment may be erected or maintained which would interfere with the Department's maintenance, operation, or other use of a transportation facility.

(g) When an overhanging encroachment must be removed by the Department, the owner may reclaim it within 30 calendar days from the date of removal, upon payment of any costs incurred by the Department in removing the encroachment.

~~(3)(2) Overhanging Signs and Canopies. Overhanging~~ Signs and canopies are prohibited along and over on limited access roadways rights of way. Signs and canopies Conditions under which overhanging signs or canopies may only be placed along adjacent to and over state roads rights of way within corporate limits of a municipality, or outside municipalities or where curb and gutter construction exists outside municipalities as authorized under Section 337.407, Florida Statutes, are in compliance with the following conditions:

(a) Where curb and gutter construction exists, provided the entire structure, including attachments and supports, must clear the sidewalk vertically by at least nine feet, (2.7 meters) and the outside edge of the structure must be canopy or sign is at least two feet (0.6 meters) behind a the vertical line extending upward from through the face of the curb, and the entire structure must comply complies with the Department's clear zone requirements set forth in Table 2.11.9 2-12-1 Clear Zone Widths and Table 2.11.10 2-12-2 Clear Zone Widths for Curved Alignments on Highways With Flush Shoulders (January 2000 1998), incorporated herein by reference. Copies of these tables are available from the Office of Right of Way, 605 Suwannee Street, MS 22, Tallahassee, Florida 32399-0450.

(b) Within municipalities where there is no curb and gutter construction, provided the sign or canopy, including attachments and supports, does not extend more than six feet (1.8 meters) over the right of way; may does not extend closer than 12 feet (3.7 meters) from the edge of the driving lane; must have has a vertical clearance of at least 10 ten feet (3 meters); and the entire structure must comply complies with the Department's clear zone requirements as set forth in Table

2.11.9 Clear Zone Widths and Table 2.11.10 Clear Zone Widths for Curved Alignments referenced in the tables identified and incorporated by reference in 14-43.001(2)(a) above.

~~(e) Where canopies or overhanging signs interfere with construction, they shall be adjusted or temporarily removed at the owner's expense.~~

~~(c)(d) The design of said canopies or signs, or canopies as to bracing and attachments to buildings, shall be approved for safety features by the appropriate official of the governmental agency affected.~~

~~(d)(e) No canopy or overhanging sign shall be erected away from the site of the business which it promotes advertises.~~

~~(f) No canopy or sign may be erected or maintained which would interfere with the Department's maintenance, operations, or other use of a transportation facility.~~

~~(f)(g) Lighting of Overhanging signs and canopies shall conform to the requirements of may be lighted, provided, however, the lighting is in compliance with Section 479.11(5), Florida Statutes.~~

~~(h) If the Department determines that a canopy or overhanging sign is not erected safely or is not in compliance with the setback or clearance requirements, upon prior written notice by the Department, it must be adjusted by the owner to meet such requirements or it shall be removed by the Department. If the canopy or overhanging sign is removed, the Department shall deliver written notice to the owner. The notice shall advise the owner of the canopy or overhanging sign of his or her right to request an administrative proceeding pursuant to Chapter 120, Florida Statutes. If the canopy or overhanging sign presents a safety hazard, the Department shall remove it and provide written notice of such removal to the permittee.~~

~~(i) When a canopy or overhanging sign must be removed by the Department, the owner may reclaim the canopy or sign within 30 calendar days from the date of removal upon payment of any costs incurred by the Department in removing the canopy or sign.~~

~~(j) No new supports may be placed within state rights of way for purposes of supporting a canopy or overhanging sign.~~

~~(k) This rule shall not authorize the erection of any canopy or sign which is prohibited by the municipality, county, local zoning authority, or agency affected.~~

~~(4)(3) Banners. Banners may only be placed along and over any state roads which are within municipalities, or which are of curb-and-gutter construction outside municipalities erected pursuant to a permit issued by the Department subject to a local government entity under the following conditions:~~

~~(a) The banner(s) must promote a public event which is sponsored by a local governmental entity. Written authorization for the placement of banners from the local government shall constitute sponsorship.~~

1. For purposes of this rule, "public event" means an event which is open to all members of the public. Fund-raising drives by non-profit organizations are considered public events.

2. For purposes of this rule, "sponsored" means written concurrence from the local government that the local governmental entity supports, endorses, and approves the event as having benefit to the general public.

~~(a) All banners for which permits are issued shall be erected in accordance with the *Manual on Uniform Traffic Control Devices*, which is incorporated by reference under Rule 14-15.010, F.A.C.~~

~~(b) Except as provided in 1. and 2. below, banners will be permitted for a period not to exceed 30 consecutive calendar days, on dates set forth in the application. The display period shall not extend more than two days beyond the date of the event being promoted. Banner permits for the same event shall not be renewed within 180 days.~~

~~1.(e) Banner pPermits for banners may be issued for routinely recurring events, e.g., events occurring monthly or quarterly, unless otherwise provided in this rule, provided the banner is displayed for no more than three consecutive days per month. The permit duration shall be no more than 12 months.~~

2. Within the corporate limits of a municipality, banners promoting or identifying a specific area, location, or designation within the municipality may be displayed. In these instances, the local governmental entity must be the banner applicant, and no additional messages or advertisements may be displayed on the banners.

(c) Outside the corporate limits of a municipality, pole banners must be placed a minimum of 1,000 feet apart and may not utilize more than 20 percent of the available supports. Inside municipalities, pole banners may be placed no closer than one on every third light standard on the same side of the roadway for non limited access facilities, and a minimum of 1,000 feet apart on limited access facilities.

1. The lowest point of the banner must be at least 10 feet above the pavement elevation;

2. The outside edge of the pole banner may be no closer than 12 feet from the edge of the driving lane; and

3. The pole banner must be attached to a light standard or other such device which is permanently located in the right of way.

~~(d) No banner may be erected or maintained which would interfere with the Department's maintenance, operation, or other use of a transportation facility.~~

~~(e) Any banner that interferes with construction shall be adjusted or removed at the owner's expense.~~

~~(f) No new supports may be placed within state rights of way for purposes of supporting a banner.~~

~~(g) The banner must advertise a public event which is sponsored or supported by a governmental entity.~~

(h) ~~Banners may not obstruct the view of any traffic signal, traffic device, or official sign, nor in any way interfere with motorists' ability to safely operate their vehicles.~~

~~(d)(4) Placement of banners on frangible light standards or other frangible devices will require a load rating analysis, signed and sealed by a registered professional engineer, certifying that the specific light standards or devices used to support the banners will handle the additional loadings placed on the structures by the banner and attachments, and will not to exceed the wind loading design requirements of the structure. Copies of load rating analyses previously submitted are acceptable for subsequent applications when all specifications are the same.~~

~~(e) Banners may not be placed within 500 feet of a limited access interchange.~~

~~(f) Street banners may only be placed on the right of way of non limited access roadways and must vertically clear the pavement by at least 18 feet. Street banners must be a minimum of 1,000 feet apart.~~

~~(j) The following additional conditions apply to banners adjacent to or across non-limited access roadways:~~

~~1. Pole banners must vertically clear any curb by at least nine feet (2.7 meters) and horizontally clear the curb face by at least two feet (0.6 meters). For non-limited access roads where there is no curb and gutter, the banners and support structures must vertically clear the pavement by at least 10 feet (3 meters) and horizontally clear the pavement by at least 12 feet (3.7 meters).~~

~~2. Street banners must vertically clear the pavement by at least 17 feet (5.2 meters), and may not obstruct or obscure the view of any traffic signal, traffic device, or official sign.~~

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

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

- ~~a. The World Cup~~
- ~~b. The Super Bowl~~
- ~~e. The Stanley Cup~~
- ~~d. The World Series~~
- ~~e. Summit of the Americas~~
- ~~f. The Olympic Games~~

~~2. The lowest point of the pole banner must be at least 10 feet (3 meters) above the pavement elevation;~~

~~3. The outside edge of the pole banner may be no closer than 12 feet (3.7 meters) from the edge of the driving lane; and~~

~~4. The pole banner must be attached to a light standard or other such device, which is permanently located in the right of way. No new support structures for pole banners may be placed in the right of way.~~

~~(5)(4) Permit Issuance. Applications for an overhanging encroachment sign, canopy, or banners must be made in writing to the appropriate District Maintenance Office.~~

~~(a) Applications for permits for overhanging signs and canopies shall include:~~

- ~~1. The name and address of the applicant.~~
- ~~2. A sketch of the sign or canopy, drawn to scale, which includes the message, letterings, logos, or emblems.~~
- ~~3. A sketch of the specific location of the sign or canopy, including height, location of supports, proximity to utility poles, and the identification of the state highway where the sign or canopy will be located.~~
- ~~4. Sketches or specific descriptions of the method to be used to affix the sign or canopy to the support structure(s).~~
- ~~5. Proof of compliance with any applicable local governmental regulations.~~

~~(b) Applications for permits for banners shall be made no later than 30 days and no earlier than 365 days prior to the requested installation date. The application Banner Permit Issuance. Applications for banners shall be on Application for Banner Permit, DOT Form 850-040-75, Rev. 01/01., incorporated herein by reference. Copies of Form 850-040-75 are available from the State Maintenance Engineer or any District Maintenance Engineer. The application shall include:~~

~~1. The name, and address, and telephone number of the applicant. If the applicant is a business or governmental entity, the name of the contact person must be supplied that is sponsoring or supporting the event. For purposes of this rule, submission of an application for a permit for banners constitutes sponsorship or support for the event.~~

~~2. Identification of the event being promoted advertised and a description of the event.~~

~~3. A sketch or drawing of the banner(s), drawn to scale, which includes the entire message that will appear on the banner(s).~~

~~4. A sketch of the specific location of the banner(s), including height, location of supports, proximity to utility poles, and the identification of the state highway where the banner(s) will be located.~~

~~5. Sketches, photographs, or specific descriptions of the method to be used to affix the banner(s) to the support structure(s).~~

~~6. The beginning and ending dates of the event being promoted.~~

~~7.6. The beginning and ending dates of the display period(s) requested.~~

~~8.7. Proof of compliance with the requirements of subsection (4)(c)(3) and any local governmental regulations.~~

9. Written authorization from the local government granting permission to the applicant for the installation of the banners. No permit for the placement of banners shall be issued when the local governmental entity has an ordinance prohibiting their installation.

10. When the roadway requested for banner installation is under the ownership of an Expressway Authority, written authorization from the affected Expressway Authority granting permission to the applicant for the installation of the banners must be provided.

~~11.8. A~~ Load rating analysis by a registered professional engineer, if required by subsection (3)(i). See (4)(d), above.

(c) Permits for banners will not be approved where a Department construction project is planned during the requested display period.

~~(d)(e)~~ The Permittee shall agree as follows:

1. To the extent provided by law, the Permittee shall indemnify, defend, and hold harmless the Department and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Permittee, its agents, or employees arising from activities associated with ~~under~~ this permit, ~~except that neither the Permittee, its agents, or its employees will be liable under this provision for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Department or any of its officers, agents, or employees arising from activities under this permit.~~

2. When the Department receives a notice of claim for damages that may have been caused by the Permittee in the performance of activities that arise under this permit, the Department will immediately forward the claim to the Permittee. The Permittee and the Department will evaluate the claim and report their findings to each other within 14 working days and will jointly discuss options in defending the claim. After reviewing the claim, the Department will determine whether to require the participation of the Permittee in the defense of the claim or to require that the Permittee defend the Department in such claim as described in this section. The Department's failure to promptly notify the Permittee of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by the Permittee. The Permittee shall bear all expenses of the Department in defense of the claim. The Department and the Permittee will each pay its own expenses for the evaluation, settlement negotiations, and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all expenses at trial.

~~(e)(d)~~ If the application is denied, the Department shall provide a Notice of Administrative Hearing rights to ~~advise~~ the applicant ~~in writing of the denial and advise the applicant of his or her right to request an administrative proceeding pursuant to Chapter 120, Florida Statutes.~~

(6) Failure to comply with the provisions of this rule shall result in the issuance of a Notice of Intent to Revoke the permit, which shall include a Notice of Administrative Hearing Rights.

(6) Provision of any notice, denial, revocation, or Notice of Administrative Hearing Rights by the Department under this rule shall not constitute, or create entitlement to an administrative hearing where such right does not otherwise exist.

Specific Authority 334.044(2), 337.407 FS. Law Implemented 316.006, ~~316.0745,~~ 316.077, ~~316.0775,~~ 334.044, 335.02, ~~335.14,~~ 337.29, 337.407, 338.237, 479.01, 479.107, 768.28 FS. History—Amended 3-21-64, 5-9-70, 7-9-75, Formerly 14-43.01, Amended 8-3-99.

COMMISSION ON ETHICS

RULE CHAPTER TITLE: Filing Full and Public Disclosure of Financial Interests Pursuant to Article II, Section 8, Florida Constitution

RULE CHAPTER NO.: 34-8

PURPOSE AND EFFECT: The Commission proposes the development of rule amendments and new rules which are intended to completely reorganize the rules in this chapter with regard to the financial disclosure obligations of public officers and employees.

SUBJECT AREA TO BE ADDRESSED: Financial disclosure requirements, including implementation of automatic penalty provisions for late filing; amendment of previously filed forms; and the final filing required within 60 days of leaving public office or employment.

SPECIFIC AUTHORITY: Art. II, Section 8, Fla. Const., 112.3144, 112.3145, 112.322(9) FS., Chs. 2000-243, 2000-258, L.O.F.

LAW IMPLEMENTED Art. II, Section 8, Fla. Const., 112.3144, 112.3145 FS., Chs. 2000-243, 2000-258, L.O.F.

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., Wednesday, February 7, 2001
 PLACE: Florida Commission on Ethics, Conference Room, Suite 101, 2822 Remington Green Circle, Tallahassee, Florida
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Julia Cobb Costas, Staff Attorney, Florida Commission on Ethics, P. O. Drawer 15709, Tallahassee, FL 32317-5709, phone number (850)488-7864 or Suncom 278-7864

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF MANAGEMENT SERVICES

Personnel Management System

RULE CHAPTER TITLE: Adoption Benefits for State and Water Management District Employees
 RULE CHAPTER NO.: 60L-25

RULE TITLE: Program Administration
 RULE NO.: 60L-25.005

PURPOSE AND EFFECT: To confirm the adoption of the department's form DMS/EPE.ADP, entitled "Application for Adoption Benefits for State and Water Management District Employees," dated 11/00, which was filed for adoption with the Bureau of Administrative Code on December 15, 2000. The reason for this confirmation is that the form as filed contained changes from the version that was noticed in the Florida Administrative Weekly on August 18, 2000, but the changes were not stated in the notice of change that was published on November 9.

SUBJECT AREA TO BE ADDRESSED: The Application for Adoption Benefits for State and Water Management District Employees form to be used by these employees when applying for adoption benefits.

SPECIFIC AUTHORITY: 110.15201 FS.

LAW IMPLEMENTED: 110.152 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: 9:00 a.m., February 5, 2001

PLACE: Room 301, 4040 Esplanade Way, Tallahassee, Florida 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Anna B. Gray, State Employee Benefits and Training Program Manager, 4050 Esplanade Way, Tallahassee, Florida 32399-0950

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

60L-25.005 Program Administration.

(1) No change.

(2) For each child adopted, an eligible applicant shall apply separately to the agency head for this benefit using the Department's Application for Adoption Benefits Form No. DMS/EPE.ADP, created in November, 2000, which is hereby incorporated by reference, and shall include a certified copy of the final order of adoption naming the applicant as an adoptive parent. It is the employee's responsibility to ensure that applications submitted to the agency are forwarded to the

Department within the open enrollment period. The agency head shall forward all applications to the Department during the open enrollment period.

(3) No change.

Specific Authority 110.15201 FS. Law Implemented 110.152 FS. History--New 1-4-01, Amended _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Electrical Contractors Licensing Board

RULE TITLE: Criteria for Continuing Education
 RULE NO.: 61G6-9.002

PURPOSE AND EFFECT: The Board proposed to review and update this rule.

SUBJECT AREA TO BE ADDRESSED: Criteria For Continuing Education.

SPECIFIC AUTHORITY: 489.507(3), 489.519(3) FS.

LAW IMPLEMENTED: 489.513(3), 489.519(3) 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: Anthony Spivey, Executive Director, Electrical Contractors Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE TITLE: Continuing Professional Education
 RULE NO.: 61H1-33.003

PURPOSE AND EFFECT: The Board proposes to amend this rule to correct the example in (4) wherein the rule states ... or two (2) all technical which should have read eight (8) and to add the reference to 61H1-27.001(1) which defines accredited institution.

SUBJECT AREA TO BE ADDRESSED: Continuing Professional Education.

SPECIFIC AUTHORITY: 120.55(1)(a),(4), 473.304, 473.312 FS.

LAW IMPLEMENTED: 473.312 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 IS: Martha Willis, Executive Director, Board of Accountancy, 240 N. W. 76 Drive, Suite #1, Gainesville, Florida 32607

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61H1-33.003 Continuing Professional Education.

(1)(a) through (3) No change.

(4) Credit may be prorated by the sponsor for courses that cover more than one area of study by (1) prorating the amount of time spent in each area or (2) awarding credit based on the lowest topic covered with accounting and auditing being the highest and behavioral the lowest. Therefore an eight-(8-)hour course that was 75% accounting and auditing and 25% management would receive six (6) hours of accounting and auditing credit and two (2) hours of technical business or eight (8) two (2) hours of all technical business. Hours cannot be prorated in less than one hour increments.

(5) In order for a licensee to receive credit for programs of learning, as defined above, the following formalities and further requirements must be met:

(a) Courses taken at institutions of higher education:

1. Higher education credit courses taken from an accredited institution as defined in 61H1-27.001(1) shall be credited for continuing professional education purposes at the rate of 15 hours for each semester hour of higher education credit and 10 hours for each quarter hour of higher education credit, provided the number of contact hours (hours in the classroom) totals at least 90% of the continuing professional education credit so determined. Otherwise, continuing professional education credit shall be limited to the actual number of contact hours.

2. through (7) No change.

Specific Authority 120.55(1)(a)4., 473.304, 473.312 FS. Law Implemented 473.312 FS. History--New 12-4-79, Amended 2-3-81, 4-5-83, 10-19-83, 7-7-85, 8-20-85, 9-18-88 Formerly 21A-33.03, Amended 9-18-88, 7-7-92, 12-2-92, Formerly 21A-33.003, Amended 12-14-93, 1-26-98, 12-17-00, _____.

DEPARTMENT OF HEALTH

Board of Chiropractic Medicine

RULE TITLE: Biennial Renewal Fee/Initial Licensure Fee

RULE NO.: 64B2-12.005

PURPOSE AND EFFECT: The proposed rule change is to raise the fee charged for renewal of a license.

SUBJECT AREA TO BE ADDRESSED: Biennial Renewal Fee/Initial Licensure Fee.

SPECIFIC AUTHORITY: 455.564(2), 460.406 FS.

LAW IMPLEMENTED 455.564(2), 460.407 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., March 2, 2001

PLACE: The Omni Jacksonville Hotel, 245 Water Street, Jacksonville, Florida 32202

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Joe R. Baker, Jr., Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #CO7, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B2-12.005 Biennial Renewal Fee/Initial Licensure Fee.

(1) The fee for biennial renewal of a chiropractic license shall be ~~\$500.00 three hundred and fifty dollars (\$350.00)~~.

(2) No change.

Specific Authority ~~456.013, 455.564(2), 456.025, 460.406, 460.407~~ FS. Law Implemented 456.013, ~~455.564(2), 456.025, 460.407~~ FS. History--New 1-10-80, Amended 10-25-83, Formerly 21D-12.05, Amended 1-28-87, 12-31-89, 10-15-92, Formerly 21D-12.005, 61F2-12.005, 59N-12.005, Amended 11-4-98, _____.

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: Delegation of Certification for Licensure to Chair

RULE NO.:

of Examination Committee; When Permitted 64B5-1.025
PURPOSE AND EFFECT: The purpose of the rule amendments is to change the word "Chairman" wherever it appears in the rule to Chair and to update the rule text in subsection (2).

SUBJECT AREA TO BE ADDRESSED: Delegation of certification for licensure to chairman of examination committee; when permitted.

SPECIFIC AUTHORITY: 466.004(4) FS.

LAW IMPLEMENTED: 456.013(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: William Buckhalt, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B5-1.025 Delegation of Certification for Licensure to Chairman of Examination Committee; When Permitted.

(1) The Board delegates to the Chairman of the Examination Committee of the Board the authority to certify, on behalf of the Board, an applicant to the Department for licensure only in the circumstance where certification was previously denied due to a failing grade on the licensure examination and it has been subsequently determined by the Department that the failing grade resulted solely from a ministerial error in the Department's calculation of the applicant's grade. Except under the limited circumstance described herein, the Chairman of the Examination Committee is not authorized to certify applicants for licensure.

(2) The Chairman of the Examination Committee shall routinely inform the Board at its next meeting meetings of those candidates that have been he has certified since the last meeting of the Board.

Specific Authority 466.004(4) FS. Law Implemented 456.013(2) 455.564(2) FS. History--New 4-19-87, Formerly 21G-1.025, 61F5-1.025, 59Q-1.025, Amended.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Emergency Financial Assistance for Housing Program	65A-33
RULE TITLES:	RULE NOS.:
Verification	65A-33.007
Program Administration	65A-33.008

PURPOSE AND EFFECT: The proposed amendment of rule 65A-33.007 provides that an applicant for the Emergency Assistance for Housing Program must either be a current client of the Temporary Cash Assistance Program or homeless as verified through a recognized social services agency. Rule 65A-33.008 provides the manner in which these requirements are administered. These revised procedures will use the amount of funding that is available to serve those most vulnerable and in need.

SUBJECT AREA TO BE ADDRESSED: This proposed rule amendment revises the department's application processing procedures applicable to the Emergency Financial Assistance for Housing Program. Procedures are being changed so that the amount of funding available is used to serve those most vulnerable and in need. This is to be accomplished via current Temporary Cash Assistance (TCA) eligibility or homelessness as verified through social service agencies/entities, such as the Department of Children and Families, faith based and other public/private agencies. In order to qualify for the Emergency Financial Assistance for Housing Program, non-TCA clients must have first sought the services of the social service agency

and that agency must substantiate that the person(s) is homeless. TCA clients must show proof of eviction or pending eviction.

SPECIFIC AUTHORITY: 414.45 FS.

LAW IMPLEMENTED: 414.16 FS.

IF REQUESTED AND DEEMED NECESSARY 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., February 5, 2001

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Paul Bartlett, Operations and Management Consultant Manager, 1317 Winewood Boulevard, Building 3, Room 421, Tallahassee, Florida 32399-0700

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE TITLE: Bag Limits, Length Limits, Open Seasons: **RULE NO.:**

Freshwater Fish **68A-23.005**

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to establish a minimum length limit for largemouth bass in order to protect and restore the population in Lake Jackson (Leon County).

SUBJECT AREA TO BE ADDRESSED: Minimum length limit for largemouth bass for Lake Jackson.

SPECIFIC AUTHORITY: Article IV, Section 9, Fla. Const.

LAW IMPLEMENTED: Article IV, Section 9, Fla. Const.

A WORKSHOP ON THE PROPOSED RULE WILL BE HELD IN CONJUNCTION WITH THE COMMISSION'S WORKSHOP AND PUBLIC MEETING AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m. each day, March 29-30, 2001

PLACE: Holiday Inn-Capital, 1355 Apalachee Parkway, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Darrell L. Scovell
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT WILL BE AVAILABLE AND CAN BE OBTAINED FROM: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764.

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Licensing

<p>RULE TITLES:</p> <p>Licensed Firearms Instructors; Schools or Training Facilities; License Application</p> <p>School Staff; Licensing Requirements; Standards</p> <p>School Curriculum; Examinations; Retention of Records</p>	<p>RULE NOS.:</p> <p>1C-3.134</p> <p>1C-3.138</p> <p>1C-3.140</p>
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PURPOSE AND EFFECT: To amend rules relating to schools or training facilities that offer classes required for recovery (repossession) agents to be licensed, so that classes may also be offered by correspondence or distance education. The effect is to allow recovery agents to acquire necessary training by correspondence or distance education.

SUMMARY: Training required for a person to be licensed as a recovery agent.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST. Rule implementation costs are zero.

SPECIFIC AUTHORITY: 493.6103, 493.6406(3) FS.

LAW IMPLEMENTED: 493.6406(3) FS.

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

TIME AND DATE: 10:00 a.m., February 20, 2001

PLACE: Conference Room, 2520 North Monroe Street, Tallahassee, Florida 32303

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Michele Guy, Assistant General Counsel, Department of State, Division of Licensing, The Capitol, MS#4, Tallahassee, FL 32399, Telephone (850)488-3492, Fax (850)488-2789

THE FULL TEXT OF THE PROPOSED RULES IS:

1C-3.134 Licensed Firearms Instructors; Schools or Training Facilities; License Application.

(1) Licensed Firearms Instructors. All licensed Firearms Instructors must utilize the instruction requirements and materials contained in the Division's Firearms Instructors Training Manual.

(2) Schools or Training Facilities. All persons or business entities desiring to operate a security officer school or training facility, or recovery agent school or training facility, which recovery agency school may include correspondence or distance education schools, shall make application for licensure as required by sections 493.6304 and 493.6406, Florida Statutes, using Form LC2E123. The Division shall examine such application to determine if it complies with all

requirements of the law and these rules. Applicants who operate programs for tuition or a fee at other than public educational facilities must submit a letter from the Department of Education confirming that the Department of Education's requirements have been met. Upon a determination by the Division that the application is complete and all requirements have been met, the Division shall issue a written temporary approval authorizing commencement of operations. A school or training facility shall not operate until temporary written approval is granted. A representative of the Division shall inspect the school or training facility within 4 months of the commencement of operations. Within 60 days of such inspection, a license shall be granted or denied. Licensure shall be valid for a period of 2 years unless suspended or revoked by final order of the Division. ~~A license for a school or training facility is valid only for the training site, facility or branch office named on the license and is not transferable to any other location. If a licensed location is changed, a new complete application and appropriate fee must be submitted.~~ In addition to the application, the following shall be submitted before written temporary approval is granted:

(a) Non-refundable application and license fees for each training site or facility where classes are to be conducted. If the course is offered by correspondence or through distance education, the application shall reflect the address where records will be retained. See Rule 1C-3.116(3)(a)13. and 15. for fees. A statement providing the date that instruction will commence, the street address or physical location, city and county of the primary building in which the classes will be conducted, a physical description of the facilities, and a scale drawing of the floor plan as a blueprint;

(b) A statement of the ownership structure of the proposed school which charges a tuition or fee, including names and addresses of all directors, and corporate status or partnership alignment. Corporations must submit a copy of the current articles of incorporation issued by the Department, Division of Corporations;

(c) A statement confirming the adoption of the minimum curriculum as required by Rule 1C-3.140(1) and (2);

(d) A statement confirming that each instructor is qualified as required by Rule 1C-3.138;

(e) A statement confirming property damage and bodily injury liability insurance coverage for the proposed school or training facility, together with a certificate of insurance. Liability insurance coverage in an amount of not less than \$50,000 shall continue in force and effect so long as the school or facility is in operation;

(f) A description of the proposed system for the handling of students' records and transcripts, and a copy of the current school-student contract format if tuition or a fee is charged;

(g) If the curriculum will be taught at a physical location – A statement providing the date that instruction will commence, the street address or physical location, city and county of the