

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

**DEPARTMENT OF STATE**

**Division of Cultural Affairs**

RULE TITLE: Division of Cultural Affairs

RULE NO.: 1T-1.001

PURPOSE AND EFFECT: The purpose of this amendment will be to incorporate new language and guidelines for the General Program Support Grants and Challenge Grant Program, as well as revise and refine language for existing programs. The amendment also removes documents incorporated by reference. This Notice of Rule Development replaces one published on April 13, 2001 regarding 1T-1.001.

SUBJECT AREA TO BE ADDRESSED: Guidelines for General Program Support Grants, Project Grants, Arts in Education Program, Challenge Grant Program, International Cultural Exchange Program, Quarterly Assistance Program, Underserved Arts Communities Assistance Program, State Touring Program, Local Arts Agency/State Service Organizations Program, Florida's Artist Residency Directory, Cultural Endowment Program, Cultural Facilities Program, and Individual Artists Fellowship Program. It also details general grants administration requirements.

SPECIFIC AUTHORITY: 255.043(5), 265.284(5)(d), 265.285(1)(c), 265.286(1),(4),(6), 265.2861(2)(b), 265.2865(6), 265.51, 265.605(1), 265.607, 265.608, 265.609(1),(4),(6), 265.701(4) FS.

LAW IMPLEMENTED: 216.349, 255.043, 265.284, 265.285, 265.286, 265.2861, 265.2865, 265.51-56, 265.601-.607, 265.608, 265.609, 265.701, 286.011, 286.012, 286.25 FS.

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

TIME AND DATE: 9:00 a.m., Friday, May 18, 2001

PLACE: Division of Cultural Affairs, 1001 DeSoto Park Drive, Tallahassee, Florida

Pursuant to the provisions of the American with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting Linda Downey, (850)487-2980. If you are hearing or speech impaired, please contact the agency by calling (850)488-5779 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Linda Downey, Chief, Bureau of Grant Services, Division of Cultural Affairs, The Capitol, Tallahassee, Florida 32399-0250

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

**DEPARTMENT OF BANKING AND FINANCE**

**Board of Funeral and Cemetery Services**

RULE TITLE: Application for Certificate of Authority

RULE NO.: 3F-5.0021

Branch Office License

3F-5.0021

PURPOSE AND EFFECT: The Board proposes to update this rule to adopt an updated version of the form DBF-COAB-12/00.

SUBJECT AREA TO BE ADDRESSED: Application for Certificate of Authority Branch Office License.

SPECIFIC AUTHORITY: 497.103 FS.

LAW IMPLEMENTED: 497.103, 497.407(4) 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: Diana Evans, Executive Director, Board of Funeral and Cemetery Services, 101 East Gaines Street, Tallahassee, Florida 32399-0350

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

3F-5.0021 Application for Certificate of Authority Branch Office License.

(1) Every Certificate of Authority holder that is part of a common business enterprise and elects to operate under a different name shall apply to the Board for a license to operate a branch office by submitting the following:

(a) A completed Application for Certificate of Authority Branch Office Registration, Form DBF-COAB-12/00, effective \_\_\_\_\_, ~~6-5-97~~, which is hereby incorporated by reference and available from the Department of Banking and Finance, Division of Finance, The Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350. The application must be completed and signed within thirty (30) days of receipt by the Board; and

(b) An application fee of \$150 which shall be the fee for the annual period beginning July 1 of each year or any part thereof.

(2) through (7) No change.

(8) Upon approval of the application, a certificate of authority branch office license will be issued for the remainder of the annual license period ending June 30 of each year.

Specific Authority 497.103 FS. Law Implemented 497.103, 497.407(4) FS. History--New 6-5-97, Amended 12-13-00, \_\_\_\_\_.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: Application Information  
RULE NO.: 6A-4.0012

PURPOSE AND EFFECT: The purpose of this rule development is to review the application forms as incorporated by reference in rule for necessary revisions. The effect will be to propose updated application forms for persons wishing to apply for a Florida Educator's Certificate.

SUBJECT AREA TO BE ADDRESSED: Application forms for a Florida Educator's Certificate.

SPECIFIC AUTHORITY: 229.053(1), 231.15(1), 231.17(11) FS.

LAW IMPLEMENTED: 231.02, 231.145, 231.15, 231.17, 231.263(12), 231.30, 943.0585 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 TO BE ADVERTISED IN A FUTURE EDITION OF THE FLORIDA ADMINISTRATIVE WEEKLY.

Requests for the rule development workshop should be addressed to: Wayne V. Pierson, Agency Clerk, Department of Education, 325 West Gaines Street, Room 1214, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: David Ashburn, Director, Division of Professional Educators, Department of Education, 325 West Gaines Street, Room 203, Tallahassee, Florida 32399-0400, (850)487-3663

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

Requests for the rule development workshop should be addressed to Wayne V. Pierson, Agency Clerk, Department of Education, 325 West Gaines Street, Room 1214, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Kenneth Loewe, Bureau of Curriculum, Instruction, and Assessment, Department of Education, 325 West Gaines Street, Room 414, Tallahassee, Florida 32399-0400, (850)488-8198

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6A-4.00821 Florida Educational Leadership Examination. (1) through (4)(a)1. No change.

a. A completed application Form CG-20-01, Registration Application: Certification Examinations for Florida Educators ~~CG-30-00, Florida Educational Leadership Examination Registration Application or Form CG-22-00, FTCE/FELE Supplemental Registration Application, as incorporated by reference in Rule 6A-4.0021, F.A.C., which includes the applicant's signature. Form CG-20-01, Registration Application: Certification Examinations for Florida Educators CG-30-00, Florida Educational Leadership Examination Registration Application~~ is hereby incorporated by reference and made a part of this rule to become effective July 2001 ~~October 2000~~. ~~This~~ ~~These~~ forms may be obtained without cost from the Bureau of Educator ~~Teacher~~ Certification, Department of Education, 325 West Gaines Street, Turlington Building, Tallahassee, Florida 32399-0400.

Specific Authority 231.15(1), 231.17(8),(11), 231.0861(3), 231.30(1) FS. Law Implemented 231.0861, 231.15, 231.17, 231.30 FS. History--New 12-25-86, 1-11-89, 5-19-98, 10-5-99, 7-17-00, \_\_\_\_\_.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: Florida Educational Leadership Examination  
RULE NO.: 6A-4.00821

PURPOSE AND EFFECT: The purpose of this rule development is to adopt an updated examination application form for persons to use when registering for the Florida Educational Leadership Examination. The effect will be to adopt an updated application form.

SUBJECT AREA TO BE ADDRESSED: Florida Educational Leadership Examination form.

SPECIFIC AUTHORITY: 231.15(1), 231.17(8)(11), 231.0861(3), 231.30(1) FS.

LAW IMPLEMENTED: 231.0861, 231.15, 231.17, 231.30 FS.

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

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE TITLE: Admissions  
RULE NO.: 12A-1.005

PURPOSE AND EFFECT: Section 212.04(2)(a)2.a., provides: "No tax shall be levied on dues, membership fees, and admission charges imposed by not-for-profit sponsoring organizations. To receive this exemption, the sponsoring organization must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1954, as amended." Rule 12A-1.005(2)(e), F.A.C., provides guidelines regarding what constitutes a "sponsoring organization" for purposes of this exemption.

The Department proposed these identical guidelines in its creation of Rule 12A-1.0011(5)(e), F.A.C. In response to comments received from the Joint Administrative Procedures Committee, prior to adoption of the rule, the Department withdrew the proposed guidelines. The purpose of the

proposed amendments to Rule 12A-1.005, F.A.C., is to remove from Rule 12A-1.005, F.A.C., guidelines identical to those proposed in Rule 12A-1.0011, F.A.C.

**SUBJECT AREA TO BE ADDRESSED:** The subject of this workshop is to provide an opportunity for public comment regarding the removal of guidelines regarding the exemption provided in s. 212.04(2)(a)2.a., F.S., from Rule 12A-1.005, F.A.C.

**SPECIFIC AUTHORITY:** 212.17(6), 212.18(2), 213.06(1) FS.  
**LAW IMPLEMENTED:** 212.02(1), 212.04, 212.08(6),(7), 616.260 FS.

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

**TIME AND DATE:** 10:00 a.m., May 24, 2001

**PLACE:** Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP IS:** 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-1.005 Admissions.

(1) No change.

(2) **EXEMPT ADMISSIONS.** The following admissions are exempt from the tax imposed under s. 212.04, F.S.:

(a) through (e) No change.

(f) Dues, membership fees, and admission charges imposed by not-for-profit sponsoring organizations are exempt. To receive this exemption, the organization making any such charges must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the United States Internal Revenue Code of 1986, as amended. ~~For purposes of this exemption, sponsorship of an event or program will be determined by the following criteria:~~

~~1. Active participation by the entity in the planning and conduct of the event or program;~~

~~2. Assumption by it of responsibility for the safety and success of the event or program, such that it will be subject to a suit for damages for alleged negligence in its conduct;~~

~~3. Entitlement by it to the gross proceeds from the event or program and to the net proceeds after payment of its costs; and~~

~~4. Responsibility by it for payment of costs of the event or program and for bearing any net loss if the costs exceed gross proceeds.~~

(g) through (6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(1), 212.04, 212.08(6),(7), 616.260 FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 7-19-72, 12-11-74, 9-28-78, 7-3-79, 12-3-81, 7-20-82, Formerly 12A-1.05, Amended 1-2-89, 12-16-91, 10-17-94, 3-20-96, 3-4-01.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

**RULE TITLE:** Leases and Licenses of Real Property; Bailments **RULE NO.:** 12A-1.070

**PURPOSE AND EFFECT:** The purpose of the proposed substantial rewording of Rule 12A-1.070, F.A.C., is to: (1) incorporate changes to s. 212.031, F.S., made by the 1999 Legislature and remove provisions that are inconsistent with those statutory changes; (2) reorganize and restructure the rule to make it easier for the reader to locate relevant provisions; and (3) eliminate obsolete provisions. The effect of these amendments will be to provide the following regarding the applicability of sales tax to the rental or lease of real property:

1) Commercial real property rentals and licenses are taxable, unless specifically exempt under the provisions of s. 212.031, F.S. Each place of business must be separately registered, as provided in Rule 12A-1.060, F.A.C.

2) Definitions of the terms “tenant,” “landlord,” “lessee,” “lessor,” “licensee,” “licensor,” “lease,” “license,” “license fees,” and “rent,” for purposes of Rule 12A-1.070, F.A.C.

3) Guidelines for when the payment of ad valorem taxes, common area maintenance charges, utility charges, and insurance may be a payment of “rent” and subject to tax.

4) Commercial rentals and licenses are subject to tax when the landlord and tenant are related parties, even when the rental consideration is used to pay debt secured by a lien or mortgage on the property.

5) Guidelines for determining the taxability of a lease or license of property that involves the use of the property for both taxable and nontaxable uses. When an allocation of lease or license payments between taxable and exempt uses is made in an agreement, but such allocation does not represent true value, the Department may determine the property rent or license fee allocable to the taxable use.

6) Guidelines for determining the taxable portion of the rental of a “residential facility for the aged.”

7) Provisions for a reasonable allocation of payments made under a lease or license for both real property and nontaxable intrinsically valuable personal property.

8) Provisions for the tenant to receive a credit for tax paid, or issue a copy of the dealer’s Annual Resale Certificate, to a landlord for that portion of the rented or leased real property

that is sublet, assigned, or licensed, including provisions for when the tenant provides services to the subtenant, assignee, or licensee.

9) Guidelines for the taxability of lease termination or cancellation payments.

10) Defines the term "bailment" and provides that bailments are not subject to tax.

11) Charges for the right to use a public or private roadway for non-transportation purposes are subject to tax.

12) Guidelines for when the lease or license of real property used by an airline for loading or unloading passengers or property onto or from an aircraft is exempt.

13) Guidelines for the lease or license of real property used by a person providing concessionaire services.

14) Requirements that a person renting or leasing real property to be used directly in connection with the production of a qualified motion picture provide a copy of its Certificate of Sales Tax Exemption for a Qualified Production Company to the landlord to rent or lease tax exempt.

15) Guidelines for the lease or license of real property occupied predominantly for space flight business purposes.

16) Guidelines for the exemption for the rental or licensing of streets or rights-of-way by a utility or franchised cable television company for utility, communications, or television purposes.

17) Guidelines for the exemption for the rental or licensing of real property upon which are placed antennas, cables, and adjacent accessory structures and equipment used in the provision of cellular, enhanced specialized mobile radio, or personal communication services.

**SUBJECT AREA TO BE ADDRESSED:** The subject of this workshop is the incorporation of the changes to s. 212.031, F.S., made by the 1999 Legislature and the provisions and guidelines provided in the proposed substantial rewording of Rule 12A-1.070, F.A.C.

**SPECIFIC AUTHORITY:** 212.17(6), 212.18(2), 213.06(1) FS.  
**LAW IMPLEMENTED:** 212.02(10)(h),(i),(13), 212.03(6), 212.031, 212.085 FS.

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

**TIME AND DATE:** 10:00 a.m., May 24, 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, (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:** Debra Gifford, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4723

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:**

(Substantial Rewording of Rule 12A-1.070 follows. See Florida Administrative Code for present Text.)

12A-1.070 Leases and Licenses of Real Property; Bailments Storage of Boats and Aircraft.

(1)(a) Every person who rents any real property, as defined in s. 212.02(10)(h), F.S., or who grants a license to use, occupy, or enter upon any real property is exercising a taxable privilege unless such real property is exempt under the provisions of s. 212.031, F.S. Such a person shall register separately each place of business, as provided in Rule 12A-1.060, F.A.C.

(b) As used in this rule, "tenant" shall include any person actually occupying, using, or entitled to use any real property (other than transient accommodations subject to s. 212.03, F.S.) pursuant to a lease and is synonymous with "lessee." "Landlord" shall include any person standing in the position of the landlord and is synonymous with "lessor." When the context suggests, the term "tenant" may also refer to a licensee, the term "landlord" to a licensor, and the terms "rent" or "lease" to a license. When used as verbs, the terms "rent," "let," and "lease" are synonymous.

(c) "Lease," when used with reference to real property, means an agreement to use and occupy real property for any purpose and that grants possession of a particularly described area of such property over which the tenant has exclusive control and the right to exclude from the property all persons, including the landlord (although a lease may grant a right to a landlord to enter upon the property for specific purposes or upon specific conditions).

(d) "License," when used with reference to real property, means the granting of a privilege to use or occupy a building or parcel of real property for any purpose.

1. Example: An agreement whereby the owner of real property grants another person permission to install and operate a full service coin-operated vending machine, coin-operated amusement machine, coin-operated laundry machine, or any like items, on real property is a license to use the real property.

2. Example: An agreement between the owner of real property and an advertising agency for the use of the real property to display advertising matter is a license to use the real property.

(e) "License fees" include all payments, whether direct or indirect, in cash, in kind, or in goods or services, paid to a licensor, or paid to another for the benefit of the licensor, for the granting of a privilege to use or occupy real property for any purpose under a license. License fees may be specified amounts or may be a percentage or share of some measuring figure, such as sales or profits.

(f) A payment of "rent," or a "lease payment," includes any payment, whether direct or indirect, in cash, in kind, or in goods or services, paid to the landlord for the granting of a privilege to use or occupy real property for any purpose under a lease and further includes base rent, percentage rent, and any similar charge.

(g) Any payment made pursuant to a lease or license agreement shall generally be considered a payment for the privilege or right to use or occupy real property if the tenant's or licensee's failure to make such payment would constitute a default, allowing termination of the lease, under the provisions of the agreement or under applicable state law. Notwithstanding the previous sentence, a payment under a lease or license agreement will not be considered a rental payment or license fee if (1) the amount of the payment, or the method for determining the amount of the payment, is separately stated in the agreement, (2) the payment is clearly labeled as being in consideration of an item other than rent and is not defined in the lease as rent or some form of rent, and (3) the tenant had the option of leasing or licensing the property without contracting for the item and becoming obligated to pay for it. A payment that does not meet the requirements of the previous sentence may nonetheless be considered not to be a payment of rent if the payment can be shown by other factors not to be for the use or occupancy of the property. In addition to the factors already mentioned, it should be considered whether the payment provides any benefit to the landlord, and if so, whether that benefit accrues to the landlord because of its ownership of property or because of some other business or activity in which the landlord might be engaged.

(h) Ad valorem taxes paid by the tenant to the landlord or to any other person for the privilege or right to use or occupy real property are considered payments of rent or license fees and are taxable.

(i) Common area maintenance charges paid by the tenant to the landlord or to any other person for the privilege or right to use or occupy real property are considered payments of rent or license fees and are taxable.

(j) Charges for electricity and natural or manufactured gas paid by a tenant to the landlord for the privilege or right to use or occupy real property are considered payments of rent or license fees and are taxable, unless the landlord has paid the

sales tax to the electric or gas company on the electricity or gas consumed by the tenant, and the electricity or gas usage is billed by the landlord to the tenant are separately stated on the landlord's invoice to the tenant at the same or lower price as that billed by the electricity or gas company to the landlord.

1. Example: The landlord owns a building with 5 offices and common areas. All offices are the same size. The landlord uses one office and leases the other four. The lease agreement provides that the charges for electricity or gas are "additional rent" and failure to pay such charges when required will cause the lease to terminate. All offices use approximately the same amount of electricity or gas. The electricity or gas are sold to the landlord. The bill to the landlord is as follows:

Electrical energy	\$1,000.00
Gas energy	500.00
Subtotal – subject to sales tax	\$1,500.00
Sewage & garbage service	100.00
Water service	50.00
Florida sales tax (\$1,000 X 7% plus \$500 x 6%)	100.00
Total amount due	\$1,750.00

The landlord charges each tenant \$2,000 rent, which includes the tenant's use of the common areas, in addition to the tenant's pro rata share of electricity and gas, including the sales tax imposed on electric or gas services, based on the landlord's cost. Of the above total charges of \$1,750.00, the \$150.00 of charges for services of sewage, garbage, and water service are not charges on which tax was paid by the landlord. Consequently, only the portion of each tenant's \$320.00 share of the total charge billed by the electric or gas company (\$1,600.00) that represents the tenant's share of non-taxable charges is taxable as rent. Therefore, the invoice to the tenant for the month should read:

Rent	\$2,000.00
Tenant's one-fifth share of charges for sewage, garbage, and water (1/5 of \$150)	30.00
Total subject to tax	\$2,030.00
Florida (6%) sales tax	121.80
Reimbursement for one-fifth share of utilities on which tax was paid by landlord (1/5 of \$1,600.00)	320.00
Total amount due	\$2,471.80

2. Example: Similar to Example 1, a landlord owns a building with 5 offices and common areas. All offices are the same size. The landlord uses one office and leases the other four. The lease agreement provides that the charges for electricity are "additional rent" and failure to pay such charges when required will cause the lease to terminate. The landlord marks up the total of the electricity charges and other utilities billed to the landlord by 10%. All offices use approximately the same amount of electricity. The bill to the landlord is as follows:

<u>Electrical energy</u>	<u>\$1,000.00</u>
<u>Subtotal – subject to sales tax</u>	<u>\$1,000.00</u>
<u>Sewage &amp; garbage service</u>	<u>100.00</u>
<u>Water service</u>	<u>50.00</u>
<u>Florida sales tax (\$1,000.00 X 7%)</u>	<u>70.00</u>
<u>Total amount due</u>	<u>\$1,220.00</u>

The landlord charges each tenant \$2,000 rent, which includes the tenant’s use of the common areas, in addition to the tenant’s pro rata share of electricity at the marked up price, instead of the amount actually paid by the landlord. The amount charged to each tenant for sewage, garbage, and water is \$33, based on a total of \$165 (\$150 + 10%). The amount charged to each tenant for electricity is \$220, based on a total of \$1,100 (\$1000 + 10%). Therefore, the invoice to the tenant for the month should read:

<u>Rent</u>	<u>\$2,000.00</u>
<u>Tenant’s one-fifth share of charges for sewage, garbage, and water (1/5 of \$165)</u>	<u>33.00</u>
<u>Total subject to tax</u>	<u>\$2,033.00</u>
<u>Florida (6%) sales tax</u>	<u>121.98</u>
<u>Reimbursement for one-fifth share of electricity on which tax was paid by landlord (1/5 of \$1,070.00)</u>	<u>214.00</u>
<u>Mark-up on electricity (1/5 of \$100)</u>	<u>20.00</u>
<u>Florida (7%) sales tax</u>	<u>1.40</u>
<u>Total amount due</u>	<u>\$2,390.38</u>

(k) When a tenant acquires insurance for his own protection, payment of the premium is not regarded as a payment of rent or a license fee, even though the landlord is also protected by the coverage. However, any portion of the premium that secures the protection of the landlord and that is separately stated or itemized is regarded as a payment of rent or a license fee and is taxable.

(2)(a) Tax is due on a rental or license payment at the time of receipt by the landlord or other person who receives the rental or license payment, except when the rental, lease, or license fee is for the use of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility to hold an event of not more than 7 consecutive days in duration. The tax due on such rental, lease, or license fee is required to be collected at the time of the rental, lease, or license payment; however, the tax is due to the Department on the first day of the month following the last day on which the event is held and becomes delinquent on the 21st day of that month.

(b) The total consideration paid by a tenant to a landlord for the use or occupancy of real property is subject to tax, even if any or all of the following factors are present:

1. The tenant and landlord are related;
2. The amount of the consideration is equal to the amount legally necessary to amortize a debt secured by a lien or mortgage on the property;

3. The tenant is jointly and severally liable on such a debt (unless the tenant has a direct ownership interest in the property, in which event the consideration is taxable only to the extent that it is not proportionate with such ownership interest).

4. The consideration is paid to the landlord, who then uses the consideration to pay a debt.

5. The consideration is paid directly to the holder of the debt.

(c)1. Example: The tenant directly owns a 25 percent interest in the real property it is leasing from a related landlord. The property is encumbered with a mortgage. The only payments made by the tenant for use of the property are payments on the mortgage. The mortgage payments are approximately equal to one-quarter of the payments that would return to the landlord a fair rental based on the fair market value of the property. The tenant’s payments of the mortgage do not constitute rent.

2. Example: The facts are the same as in the previous example, except that the mortgage payments are approximately equal to the payments that would return to the landlord a fair rental based on the fair market value of the property. Seventy-five percent of the tenant’s payments of the mortgage are considered to be payments of rent, because the payments exceed by that amount payments that would be proportionate to the tenant’s ownership interest.

(3)(a) When a lease or license to use or occupy real property involves the multiple use of such real property, such that a lease or license of part of the real property would be subject to tax and a lease or license of another part would be excluded from tax, the Department shall determine from the lease or license and such other information as may be available the portion of the payment for the lease or license that is exempt from tax. That determination may take into account the market values of the respective parts or uses and the receipts or income derived from each. The determination will be made on a square footage basis when the charge or value per square foot of the various parts of the real property are substantially equal.

(b) When an allocation of lease or license payments between taxable uses and exempt uses is made in the lease or license agreement, but in the judgment of the Department, the amount of rent or license fee stated in the lease or license arrangement for the taxable portion of the real property does not represent true value, the Department shall make a determination of the proper amount of rent or license fee applicable thereto for the purpose of determining the amount of tax due from such other information as is available.

(c) When a lease or license provides both for payments taxable as rent or license fees and for payments for nontaxable intrinsically valuable personal property, such as franchises, trademarks, service marks, logos, or patents, the tax shall be based on a reasonable allocation of the payments to the taxable property.

(d) Real property leased or rented by for-profit entities qualifying as a “residential facility for the aged” under s. 212.031(1)(b), F.S., is taxable on a pro-rata basis, the portion that is taxable being determined by the square footage that is used for commercial purposes, such as a bank, beauty shop, or gift shop, and unimproved grounds that are part of the property, compared to the total square footage of the real property.

(4)(a) When a tenant sublets, assigns, or licenses some portion of the leased or licensed property and collects rent or license fees subject to tax, the tenant must register as a dealer and collect and remit the tax on the sublease, assignment, or license. The tenant may take credit for the tax paid to the landlord on the area being sublet, assigned, or licensed. The amount of the credit shall not exceed the consideration received by the tenant for the sublease, assignment, or license.

(b) Examples illustrating a sublease and credit situation are as follows:

1. Tenant leases 200 square feet of floor space, all of substantially equal value, for \$400 and pays Landlord \$24 tax on the rental. Tenant subleases 100 square feet of the space to Subtenant for \$300 and collects \$18 tax. Tenant may credit against that \$18 tax the tax paid by Tenant to Landlord on 100 square feet, or \$12. Tenant thus remits to the Department \$6 tax on the sublease.

2. Tenant leases 200 square feet of floor space, all of substantially equal value, for \$400 and pays Landlord \$24 tax on the rental. Tenant subleases 100 square feet of the space to Subtenant for \$150 and collects \$9 tax. Tenant may credit against that \$9 tax the tax paid by Tenant to Landlord on 100 square feet, but only to the extent of the tax collected from Subtenant. Tenant thus remits to the Department no tax on the sublease (\$9 minus \$9).

(c) If the tenant sublets, assigns, or licenses all, or all but an incidental portion, of the leased or licensed property, the tenant may elect (by registering as a dealer and extending to the landlord a copy of the dealer’s Annual Resale Certificate, form DR-13) not to pay tax on the rent paid to the landlord and instead collect and remit tax on the consideration received by the tenant for the sublease, assignment, or license and also remit tax on the portion of the rent pertaining to the portion of the property not sublet, assigned, or licensed by the tenant.

(5)(a) The amount charged by a landlord to a tenant to cancel or terminate a lease is presumed subject to tax if the landlord records the amount as rental or license income in its books and records. When sufficient documentation, such as a lease, contract, or other tangible evidence, exists that establishes the amount as either a payment for the use or occupancy of real property, or not a payment for the use or occupancy of real property, such documentation will be controlling in regard to the taxable character of such amount.

(b) When a tenant exercises a discontinuance or termination option provided in the lease that terminates the lease of the property and requires the tenant to make a payment for such discontinuance or termination, the payment is subject to tax.

(c) When liquidated damages are imposed upon the lessee for the breach or default in the performance of the lessee’s obligations under the terms of the lease and the subject real property is no longer used or available for use by the defaulting lessee, the liquidated damages are in the nature of a penalty and are not subject to tax.

(6)(a) When tangible personal property is left upon another’s real property under a contract of bailment as defined in this subsection, the consideration paid to the bailee for the bailment is not paid for the use or occupancy of the real property.

(b) A bailment is a contractual agreement, oral or written, pursuant to which one person, the bailor, delivers personal property to another, the bailee, and the bailor for the duration of the relationship relinquishes his exclusive possession, control, and dominion over the personal property, so that the bailee can exclude, within the limits of the agreement, the possession of the property to others. If there is no such delivery and relinquishment of exclusive possession, and the owner’s control and dominion over the property is not dependent upon the cooperation of the person on whose real property the personal property is left, and the owner’s access to his or her personal property is not subject to the real property owner’s control, the owner of the personal property is generally a tenant or licensee of the part of the real property upon which the personal property is left.

(c) Examples illustrating the concept of a bailment are as follows:

1. The use of a safety-deposit box in a bank or vault is a bailment, not a lease or license, because the bank has one key and the customer another key, and both keys are necessary for the customer to gain access to the box.

2. The rental of an airport locker is not a bailment, but a lease or license, because the box renter has unfettered access to the locker even though the airport operator, for security or other reasons, also has a key to the locker.

3. The use of a frozen food locker in a cold storage plant is a bailment if the plant operator’s presence and assent are required in order that the food owner may access his property.

(d) A person who merely grants storage space without assuming, expressly or implicitly, any duty or responsibility with respect to the care and control of the property stored is a landlord and not a bailee, and any charge made for the storage space is taxable.

(e) Leases, licenses, and bailments are each contractual relationships, and the terms are not mutually exclusive. In determining the true nature of the relationship created, consideration will be given to the manifested intention of the parties, and the label attached to a contract is not conclusive.

(7) A charge for the right to use a public or private roadway for non-transportation purposes is taxable. Example: A civic organization that is not exempt from sales tax contracts with a city to have certain streets and sidewalks blocked from traffic to conduct its annual festival. The privilege granted by the city to the civic organization for the use of the streets and sidewalks constitutes a license to use real property for non-transportation purposes. Therefore, any charge by the city to the civic organization for the use of streets and sidewalks is taxable.

(8)(a)1. The lease or license of real property used by an airline for loading or unloading passengers or property onto or from an aircraft is exempt. This real property includes: common walkways inside a terminal building used by passengers for boarding or departing from an aircraft, ticket counters, baggage claim areas, ramp and apron areas, office areas used to process tickets, baggage processing areas, areas used for the purpose of operational control of an airline's aircraft, air cargo areas, and departure lounges (the rooms that are used by passengers as sitting or gathering areas immediately before surrendering their tickets to board the aircraft). The space occupied by VIP lounges and airport clubs that are affiliated with an airline, or by a club that requires a membership or charge or for which membership or usage is determined by ticket status, is property the lease or license of which would be subject to tax.

2. If any portion of the above property is used for any other purpose, the lease or license of the property shall be subject to tax on a pro-rata basis, the exempt portion of which shall be determined by multiplying the total lease or license payment by a fraction, the numerator of which is the square footage of the areas in the airport used exclusively by an airline for the purpose of loading or unloading passengers or property onto or from aircraft and the denominator of which is the total square footage used by the airline.

3. Example: An airline leases a total of 3,000 square feet from an airport authority. The airline uses the space as follows: 1,000 square feet are used to process tickets and check in passengers' baggage; 1,000 square feet are used for the passengers' departure lounge; and 1,000 square feet are used for the management office and employees' lounge. The 1,000 square feet used to process tickets and check in baggage are exempt, as are the 1,000 square feet used as the departure lounge. The 1,000 square feet used for the management office and employees' lounge are taxable, because that space is not used exclusively for the purposes of loading or unloading passengers or property onto or from aircraft. The fraction to

determine the portion of the total rental or license fee that is exempt is therefore 2,000 square feet as the numerator and 3,000 square feet as the denominator.

(b) The lease or license of passenger loading bridges (jetways) and baggage conveyor systems is exempt if such items are considered real property or "fixtures," as that term is defined in s. 212.06(14)(b), F.S.

(c) The lease or license of real property that is used by an airline for fueling aircraft is exempt. The charge made to an airline for the use of aprons, ramps, or other areas used for fueling aircraft is exempt.

(9) The lease or license of real property by a person providing concessionaire services under circumstances described in one of the following paragraphs is exempt:

(a) A person providing retail concessionaire services, involving food and drink or other tangible personal property, directly to the general public within the premises of an airport shall not be subject to tax on license fees paid for the use of the airport property. Rent paid for the use of such property is subject to tax.

(b) A person who provides food and drink concessionaire services within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, publicly owned recreational facility, or any business operated under a permit issued pursuant to chapter 550, F.S., shall not be subject to tax on rent or license fees paid for the use of space within such premises. The rental of the entire premises by a person who provides food and drink concessionaire services does not qualify for this exemption and is subject to tax.

(c) A person who rents or licenses space within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility to sell souvenirs, novelties, or other event related products shall not be subject to tax on any portion of the rent or license fees paid for the use of such space that is based on a percentage of sales during an event at the facility.

1. For purposes of this paragraph, the phrase "during an event" shall be construed to include a reasonable time before and after the event, considering the nature of the event, and shall generally not be less than the entire day of the event. For example, a major sporting event may attract crowds that arrive at a stadium the day prior to the event. A person licensed by the facility to sell souvenirs on the stadium grounds on that day shall qualify for the exemption on any portion of the license fees based on a percentage of sales during that day.

2. An "event" is any activity within the premises that is attended by the general public. For example, a dress rehearsal or pre-game activity that is attended by the general public is an event for purposes of this exemption.



3. A person claiming this exemption must maintain records adequate to substantiate the time period of the event, the sales during the event, and the portion of the rent or license fees for which exemption is claimed.

(10) A person leasing or licensing real property to be used as an integral part of the performance of qualified production services directly in connection with the production of a qualified motion picture, as defined in s. 212.06(1)(b), F.S., and who desires that the rental payments or license fees be exempt from tax in accordance with s. 212.031(1)(a)9., F.S., should present to the landlord a copy of their Certificate of Sales Tax Exemption for a Qualified Production Company (form DR-231).

(11)(a) A person leasing or licensing real property to be used or occupied predominantly for space flight business purposes as defined in s. 212.031(1)(a)12., F.S., and who desires that the rental payments or license fees be exempt from tax in accordance with such section, should present to the landlord a statement similar to the following at the time of execution of the lease or license:

**SUGGESTED LESSOR'S EXEMPTION CERTIFICATE  
REAL PROPERTY USED OR OCCUPIED FOR  
SPACE FLIGHT BUSINESS PURPOSES**

\_\_\_\_\_  
(Lessee/Licensee's Name) certifies that the rental, lease, or license of real property located at \_\_\_\_\_ (Address of Property) will be used or occupied predominantly for one or more space flight business purposes.

The undersigned understands that if the real property is not used or occupied predominately (more than 50%) for one or more space flight business purposes, the undersigned will be subject to sales and use tax, interest, and penalties. The undersigned further understands that when any person fraudulently, for the purpose of evading tax, issues to a vendor or to any agent of the state, a certificate or statement in writing in which he or she claims exemption from the sales tax, such person, in addition to being liable for payment of the tax plus a mandatory penalty of 200% of the tax, shall be liable for fine and punishment provided by law for conviction of a felony of the third degree, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

Lessee/Licensee's Information:

_____ Name (Print or Type )	_____ Florida Sales Tax # (if registered)
_____ Signature and Title	_____ Date
_____ Federal Employer Identification Number (F.E.I.) or Social Security Number	_____ Telephone Number

(Form to be retained in lessor/licensor's records)

(b) When the real property is not used or occupied predominantly for one or more space flight business purposes, and the lease exemption certificate has been provided to the landlord, tax should be accrued and remitted to the Department by the tenant or licensee.

(12)(a) The rental or licensing of a public or private street or right-of-way, as well as poles, conduits, fixtures, and similar improvements on such streets or rights of way, occupied or used by a utility or franchised cable television company for utility, communications, or television purposes is exempt. For this purpose, the term "right-of-way" means an easement or way that grants the holder the right to pass over the land of another in some particular line. The term includes passageways, such as roadways, alleys, or other means to travel across or traverse property in a linear fashion. For example, a strip of land upon which a series of telephone or other utility poles have been erected is a "right-of-way."

(b)1. The rental or licensing of real property, including buildings, upon which is placed towers, antennas, cables, accessory structures, or equipment, not including switching equipment, used in the provision of mobile communications services as defined in s. 202.11, F.S., is exempt.

2. A person leasing or licensing real property for the uses described in subparagraph (b)1. should present to the landlord a statement similar to the following at the time of execution of the lease or license:

**EXEMPTION CERTIFICATE FOR LEASE OR  
LICENSE OF REAL PROPERTY UPON WHICH  
CERTAIN TOWERS, ANTENNAS, EQUIPMENT,  
AND STRUCTURES ARE PLACED**

\_\_\_\_\_  
(Name of Tenant/Licensee) certifies that it is engaged in providing mobile communications services as defined in s. 202.11, F.S. The undersigned also certifies that the lease or license of space is to be used for the placement of towers, antennas, cables, equipment, or accessory structures that will be used in providing such communications services. The undersigned understands that when any person fraudulently, for the purpose of evading tax, issues to a vendor or to any agent of the state a certificate or statement in writing in which he or she claims exemption from the sales tax, such person, in addition to being liable for payment of the tax plus a mandatory penalty of 200% of the tax, shall be liable for fine and punishment provided by law for conviction of a felony of the third degree, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

_____ Name of Tenant/Licensee	_____ Florida Sales Tax Number
_____ Signature and Title of Authorized Representative	_____ Date
_____ Federal Employer Identification Number	_____ Telephone Number

(Form to be retained in landlord/licensor's records)

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(10)(h),(i),(13), 212.03(6), 212.031, 212.085 FS. History—Revised 10-7-68, Amended 2-8-69, 10-7-69, Revised 6-16-72, Amended 9-26-77, 10-18-78, 12-31-81, 7-20-82, Formerly 12A-1.70, Amended 1-2-89, 3-22-95, 7-17-95,\_\_\_\_\_.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE TITLE: Revocation of Sales Tax Exemption Certificates  
 RULE NO.: 12A-1.095

PURPOSE AND EFFECT: The purpose of the proposed changes to Rule 12A-1.095, F.A.C., Revocation of Sales Tax Exemption Certificates, is to: 1) remove the repetition of s. 212.084, F.S., which requires the Department to review each sales tax consumer’s certificate of exemption issued by the Department; and 2) remove the incorporation by reference of form DR-5AC, which is no longer used by the Department to initiate the revocation of a consumer’s certificate of exemption through an administrative complaint.

SUBJECT AREA TO BE ADDRESSED: The subject of this rule development is the proposed removal of the repetition of s. 212.084, F.S., and the removal of obsolete form DR-5AC from Rule 12A-1.095, F.A.C.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1), 213.21(1) FS.

LAW IMPLEMENTED: 120.569, 120.57(1),(2), 120.60(5),(7), 120.80(14), 212.084, 212.18(3), 213.06, 213.21(1) FS.

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

TIME AND DATE: 10:00 a.m., May 24, 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, (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-1.095 Revocation of Sales Tax Exemption Certificates.

~~(1) The Department shall review each Consumer’s Certificate of Exemption (hereinafter referred to as a sales tax exemption certificate) to ensure that the entity possessing a sales tax exemption certificate is actively engaged in a bona fide exempt endeavor. Each entity possessing a sales tax exemption certificate shall fully cooperate with the Department during the review process.~~

~~(a) The Department shall choose entities for review based on an alphabetical selection procedure within each county whenever feasible.~~

~~(b) During the review process an entity may be required to submit documentation and evidence of its organizational structure, federal tax status, program content, or any other materials deemed necessary by the Department during the review process.~~

~~(c) After the Department’s review is completed and it has been determined that an entity is actively engaged in a bona fide exempt endeavor, the sales tax exemption certificate shall be reissued. Each sales tax exemption certificate which is reissued shall be valid for 5 consecutive years after the date of reissuance, at which time the sales tax exemption certificate shall again be subject to review and reassurance. If it is determined that the entity no longer qualifies for an exemption, the sales tax exemption certificate shall be revoked, or not reissued.~~

~~(d) The Department shall revoke the sales tax exemption certificate of any entity which fails to respond to either of two written requests for information regarding the entity’s taxable status. The two letters shall be mailed at least 4 weeks apart to the entity’s last known address.~~

~~(e) Any entity may apply for reissuance of a revoked sales tax exemption certificate if the revocation occurred due to the entity’s failure to respond to either of the two written requests sent by the department. The Department prescribes Form DR-5, Sales and Use Tax Application for Consumer’s Certificate of Exemption, incorporated by reference in Rule 12A-1.097, F.A.C., as the form to be utilized in the application for reissuance of a revoked sales tax exemption certificate.~~

~~(f) Notwithstanding the provisions of Section 213.053, F.S., to the contrary, the Department shall furnish, upon request, the name and address of any institution, organization, individual, or other entity possessing a valid sales tax exemption certificate.~~

~~(1)(2) Pursuant to the requirements of s. 120.60(7), F.S., the Department shall commence the a revocation of a consumer’s certificate of exemption action through an administrative complaint. The Administrative Complaint/Revocation of Consumer’s Certificate of Exemption (Form DR-5AC, incorporated by reference in Rule~~

12A-1.097, F.A.C.) notifies the certificate holder of the Department's intended action and the facts and legal authority which support that intended action.

~~(2)(3)~~(a) In order to challenge a proposed revocation, the certificate holder receiving an Administrative Complaint/Revocation of Consumer's Certificate of Exemption (Form DR-5AC) 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 on the administrative complaint. If the Request for Hearing is filed with the Department by mail, the date of the postmark will be the date of 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 General Counsel  
 Department of Revenue  
 Post Office Box 6668  
 501 South Calhoun Street  
 201 Carlton Building  
 Tallahassee, Florida 32314-6668.

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

1. The name and address of the entity opposing the revocation of its consumer's certificate of exemption;
2. The case number of the administrative complaint;
3. A statement requesting an administrative hearing;
4. A statement specifying the factual allegations in the administrative complaint which the entity denies;
5. A statement setting forth any other factual or legal issues which 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 revocation of the 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;
10. The date of the Request for Hearing.

~~(3)(4)~~ In the event that a certificate holder fails to submit a Request for Hearing, or fails to submit a timely Request for Hearing which complies with all the requirements set forth in subsection ~~(2)(3)~~, the Department shall, without hearing, revoke the consumer's certificate of exemption.

Specific Authority 212.17(6), 212.18(2), 213.06(1), 213.21(1) FS. Law Implemented 120.569, 120.57(1),(2), 120.60(5),(7), 120.80(14), 212.084, 212.18(3), 213.06, 213.21(1) FS. History—New 7-8-82, Amended 11-6-85, Formerly 12A-1.95, Amended 8-10-92, 12-8-92, 12-31-94, \_\_\_\_\_.

**DEPARTMENT OF CITRUS**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Payment of Excise Taxes	20-9
RULE TITLES:	RULE NOS.:
Fresh Form	20-9.001
Processed Form	20-9.002
Fruit Shipped Out-of-State to Government Agencies, or to a Packinghouse, or Processing Plant or to a Fresh Fruit Juice Distributor	20-9.003
Fruit Handled by Express and Gift Package Shippers	20-9.004
Requirements to Guarantee Payment of Excise Tax	20-9.005
Late Filing of Returns and Inadequacy of Bond	20-9.006
Mixing of Oranges	20-9.007
Utilization of Certificate of Deposit in Lieu of Bond	20-9.008
PURPOSE AND EFFECT: Amendment to clarify payment procedures currently followed by the Department regarding the payment and collection of excise taxes.	
SUBJECT AREA TO BE ADDRESSED: Clarifying payment procedures of excise taxes.	
SPECIFIC AUTHORITY: 601.10(1),(7), 601.15(1),(5),(6), (10)(a), 601.155(3),(7), 601.25 FS.	
LAW IMPLEMENTED: 601.15(1),(3),(5),(6),(9), 601.152, 601.154, 601.155, 601.27 FS.	
IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AT A TIME, DATE AND PLACE TO BE ANNOUNCED.	
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Alice P. Wiggins, Administrative Assistant, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148	
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.	

**DEPARTMENT OF CITRUS**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Loading Manifest to be Furnished to the Inspector – Fresh Citrus Fruit	20-40
RULE TITLE:	RULE NO.:
Mandatory Automated Reporting	20-40.005
PURPOSE AND EFFECT: Would provide exemption to mandatory automated reporting for small shippers, who would be required to report the information on forms to be submitted to Florida Department of Agriculture and Consumer Services.	
SUBJECT AREA TO BE ADDRESSED: Exemption of small shippers to automated reporting of loading manifests.	



(e) Inmates who are functionally illiterate, mentally disordered, or have other disabilities that hinder their ability to research the law and prepare legal documents and legal mail, and need research assistance, shall be provided access to the law library and to research aides. These inmates may request legal assistance by making an oral request for same to the correctional staff working in their housing or confinement units, classification staff, work supervisors, mental health staff, or to the librarian. Staff shall relay oral requests for legal assistance to the librarian. Upon receipt of an oral or written request, the librarian shall schedule the inmate for a visit to the law library or a visit with a research aide.

(f) Priority in the use of the law library, legal research materials or services shall be given to inmates who must meet deadlines imposed by law, rule or order of court in legal proceedings challenging convictions, sentences or prison conditions. However, the inmate shall be responsible for notifying the department of the his deadline in a timely manner. Department staff shall respond to a request for special access to meet a deadline within 48 hours of the request. This period shall not be shortened due to the failure of the inmate to give timely notice of the deadline. A court deadline is any requirement imposed by law, rule or order of court that establishes a maximum time limit on the filing of legal documents with a court. For purposes of this rule, priority access shall only be granted if the maximum time limit is 20 or fewer days. No inmate shall be excused from work for more than two days per work week. The librarian shall only excuse an inmate from work when:

1. The inmate needs to secure access to law library services, such as copying or interlibrary loan services. In such instances, the inmate shall only be excused for as long as is necessary to request or receive the necessary assistance; or,

2. The inmate needs access to legal research materials only available in the law library collection, and the time available to the inmate to use the law library during off-duty hours is determined to be less than six hours per week.

(g) No inmate shall be excused from work solely for the purpose of drafting legal documents and legal mail; such activities shall be performed during off-duty hours. Inmates in open population who do not have court deadlines as described above shall be expected to use the law library or access law library services during off-duty hours.

(h)(g) Inmates who mutilate, deface or pilfer law library materials shall be subject to formal disciplinary action as provided in 33-601.301-.314, and penalties for infraction may include a temporary suspension of the inmate's privilege of on-site use of the law library of up to 30 days. The disciplinary team which presides over the disciplinary hearing shall determine the length of the suspension after considering the inmate's past record of rule infractions while in the law library, assessing the material damage to the legal research collection, and determining whether the damage to the collection was

intentional or inadvertent. Inmates who have been suspended from the law library shall conduct business through correspondence or through research aides inmate law clerks rather than through personal visits to the law library. However, steps shall be taken to ensure that the inmate is not denied access to legal material during this suspension.

(3) Law Library Access for Inmates in Administrative Confinement, Disciplinary Confinement, Close Management, Protective Management, in Mental Health Units, and on Death Row.

(a) ~~Inmates in administrative confinement shall have access to the law library.~~ Inmates in administrative confinement, disciplinary confinement, and close management shall be permitted to have access to their personal legal papers and law books, to correspond with the law library, to have the law library deliver legal materials to their the inmate's cells, and, as provided in sections (2)(e) and (f), to visit with research aides certified inmate law clerks. Efforts shall be made to accommodate the research needs of inmates who have filing deadlines imposed by law, rule or order of court in legal proceedings challenging convictions, sentences or prison conditions in administrative confinement who demonstrate that they need to meet a deadline imposed by law, rule or order of court. ~~Inmates in administrative confinement, disciplinary confinement and close management at Florida State Prison shall be permitted to visit the law library if security requirements permit it. If security requirements prevent a personal visit to the law library, the inmate shall be required to secure legal assistance through visits with research aides or by means of correspondence.~~

(b) Inmates in mental health units shall be provided access to the law library and provided opportunities to visit with research aides. These inmates shall be permitted to have access to their personal legal papers and law books, to correspond with the law library, and to have the law library deliver legal materials to their cells. These inmates may request legal assistance by making an oral request for same to the security or mental health staff working in the unit. Security and mental health staff shall relay oral requests for legal assistance to the librarian. Upon receipt of a request, the librarian shall arrange for a research aide to visit the inmate. Efforts shall be made to accommodate the research needs of inmates who have filing deadlines imposed by law, rule or order of court in legal proceedings challenging convictions, sentences or prison conditions. ~~Written inmate requests for legal assistance shall be directed to the librarian and shall be responded to within 2 working days of receipt, not including the day of receipt. For purposes of this rule, "working day" shall mean any weekday not including holidays or weekends. Specific requests for cases, statutes or other reference materials, or requests for legal supplies or forms, shall be responded to by means of correspondence. However, written inmate requests for legal assistance that are broad in scope, contain incorrect references~~

to research materials, or where the styling or content of the request indicates that the inmate lacks an understanding of the law or legal research, that the inmate is functionally illiterate, or that the inmate may be impaired, shall be responded to by personal interview with an inmate law clerk or the librarian.

(c) Inmates in protective management shall be permitted to have access to their personal legal papers and law books, to correspond with the law library, and to have the law library deliver legal materials to their cells. Inmates in protective management shall have access to the law library, to include access to at least one research aide, during evening or other hours when general population inmates are not present. If security reasons prevent a visit to the law library, access shall be provided through visits with research aides or by means of correspondence. Efforts shall be made to accommodate the research needs of inmates who have filing deadlines imposed by law, rule or order of court in legal proceedings challenging convictions, sentences or prison conditions.

(d) Inmates on death row shall be permitted to have access to their personal legal papers and law books, to correspond with the law library, to have the law library deliver legal materials to the inmate's cell, and to visit with research aides. Inmates on death row who have filing deadlines imposed by law, rule or order of court, in legal proceedings challenging convictions, sentences, or prison conditions, shall be permitted to visit the unit's law library at least once per week for up to two hours if security requirements permit it. If security requirements prevent a personal visit to the law library, the inmate shall be required to secure legal assistance through visits with research aides or by means of correspondence.

~~(e)~~(e) Inmates shall be limited to possession the receipt of no more than 15 research items from the law library at any one time. Research items are defined as photocopies of cases, statutes and other reference materials provided by the law library and do not include the inmate's personal legal papers, pleadings, or transcripts. Institutions shall require that inmates return all research materials supplied previously by the law library, or explain why some or all research materials issued previously must be retained, in order to receive additional materials. Institutions shall also limit the accumulation of research materials when possession of same in an inmate's cell creates a safety, sanitation or security hazard.

~~(d) Each institution shall establish a regular schedule for visits by inmate law clerks to the confinement area to provide assistance to inmates. The regular schedule shall require visits on at least 3 days each week. If security requirements prevent permitting a law clerk visit at the scheduled time, then the law clerk visit shall be rescheduled. Not less than 3 visits shall be conducted within any 7 day period.~~

~~(e) Illiterate or impaired inmates shall be permitted to request a visit with an inmate law clerk by making an oral request for same to the correctional staff working in the~~

confinement unit. Upon receipt of an oral request, the correctional staff shall permit the inmate to visit with an inmate law clerk at the next scheduled law clerk visit.

~~(4) Law Library Access for Inmates in Protective Management.~~

~~(a) Inmates in protective management shall have access to the law library, to include access to at least one certified inmate law clerk, during evening or other hours when general population inmates are not present. If security reasons prevent a visit, access shall be provided through correspondence or visits from inmate law clerks. Steps shall be taken to ensure the inmate is not denied needed legal access while in protective management.~~

~~(b) Written inmate requests for legal assistance shall be directed to the librarian and shall be responded to within 2 working days of receipt not including the day of receipt. Specific requests for cases, statutes or other reference materials, or requests for legal supplies or forms, shall be responded to by means of correspondence. However, written inmate requests for legal assistance that are broad in scope, contain incorrect references to research materials, or where the styling or content of the request indicates that the inmate lacks an understanding of the law or legal research, that the inmate is functionally illiterate, or that the inmate may be impaired, shall be responded to by personal interview with an inmate law clerk or the librarian.~~

~~(c) Inmates shall be limited to the receipt of no more than 15 research items from the law library at any one time. Research items are defined as photocopies of cases, statutes and other reference materials provided by the law library and do not include the inmate's personal legal papers, pleadings, or transcripts. Institutions shall require that inmates return all research materials supplied previously, or explain why some or all research materials issued previously must be retained, in order to receive additional materials. Institutions shall also limit the accumulation of research materials when possession of same in an inmate's cell creates a safety, sanitation or security hazard.~~

~~(d) Each institution shall establish a regular schedule for visits by inmate law clerks to the protective management unit to provide assistance to inmates. The regular schedule shall require a visit on at least one day each week other than the day that protective management inmates are scheduled to visit the law library. If security requirements prevent a law clerk visit at the scheduled time, then the law clerk visit shall be rescheduled.~~

~~(e) Illiterate or impaired inmates shall be permitted to request a visit with an inmate law clerk by making an oral request for same to the correctional staff working in the confinement unit. Upon receipt of an oral request, the correctional staff shall permit the inmate to visit with an inmate law clerk at the next scheduled law clerk visit.~~

~~(5) Law Library Access for Inmates in Close Management.~~

~~(a) Inmates in close management shall be permitted to have access to their personal legal papers and law books, to correspond with the law library, to have the law library deliver legal research materials to their cells, and to visit with certified inmate law clerks. Efforts shall be made to accommodate the research needs of inmates in close management who demonstrate that they need to meet a deadline imposed by law, rule or order of court.~~

~~(b) At Florida State Prison, inmates in close management shall be taken to the law library unless security requirements prevent a personal visit. If security requirements prevent a personal visit to the law library, the inmate shall be required to secure legal assistance by means of correspondence with the law library, by using legal materials brought to the inmate's cell, and through visits with certified inmate law clerks. However, steps shall be taken to ensure that the inmate is not denied access while in close management.~~

~~(c) At all institutions except Florida State Prison, inmates in close management, levels I and II, shall not be taken to the law library. An inmate in close management, levels I and II, shall be required to secure legal assistance by means of correspondence with the law library, by using legal materials brought to the inmate's cell, and through visits with certified inmate law clerks, rather than a personal visit to the law library. However, steps shall be taken to ensure that the inmate is not denied needed access while in close management, levels I and II.~~

~~(d) Inmates in close management, level III, who need to prepare legal documents to meet a deadline imposed by law, rule, or order of court, shall be permitted to visit the law library once each week, for up to 2 hours in duration, after completing 60 days after the first month in this status with a clear disciplinary record and satisfactory adjustment (as defined in rule 33-603.401) since being in close management, unless security and safety concerns preclude law library visits.~~

~~(e) Inmates in close management, level III, who have not completed 60 days after the first month in this status with a clear disciplinary record and satisfactory adjustment (as defined in rule 33-603.401) since being in close management shall secure the needed legal assistance by means of correspondence with the law library, by using legal materials brought to the inmate's cell, and by securing assistance through visits with certified inmate law clerks, rather than a personal visit to the law library. However, steps shall be taken to ensure that the inmate is not denied needed access while in close management.~~

~~(f) Written inmate requests for legal assistance shall be directed to the librarian and shall be responded to within 2 working days of receipt, not including the day of receipt. For purposes of this rule, "working day" shall mean any weekday, not including holidays or weekends. Specific requests for~~

~~cases, statutes or other reference materials, or requests for legal supplies or forms, shall be responded to by means of correspondence. However, written inmate requests for legal assistance that are broad in scope, contain incorrect references to research materials, or where the styling or content of the request indicates that the inmate lacks an understanding of the law or legal research, that the inmate is functionally illiterate, or that the inmate may be impaired, shall be responded to by personal interview with an inmate law clerk or the librarian.~~

~~(g) Inmates shall be limited to the receipt of no more than 15 research items from the law library at any one time. Research items are defined as photocopies of cases, statutes and other reference materials provided by the law library, and do not include the inmate's personal legal papers, pleadings, or transcripts. Institutions shall require that inmates return all research materials supplied previously by the law library, or explain why some or all research materials issued previously must be retained, in order to receive additional materials. Institutions shall also limit the accumulation of research materials when possession of same in an inmate's cell creates a safety, sanitation or security hazard.~~

~~(h) Each institution shall establish a regular schedule for visits by inmate law clerks to the close management unit to provide assistance to inmates. The regular schedule shall require visits on at least 3 days each week. If security requirements prevent permitting a law clerk visit at the scheduled time, then the law clerk visit shall be rescheduled. Not less than 3 visits shall be conducted within any 7 day period.~~

~~(i) Illiterate or impaired inmates shall be permitted to request a visit with an inmate law clerk by making an oral request for same to the correctional staff working in the confinement unit. Upon receipt of an oral request, the correctional staff shall permit the inmate to visit with an inmate law clerk at the next scheduled law clerk visit.~~

~~(6) Law Library Access for Inmates in Disciplinary Confinement.~~

~~(a) Inmates in disciplinary confinement shall be permitted to have access to their personal legal papers and law books, to correspond with the law library, to have the law library deliver research materials to their cells, and to visit with certified inmate law clerks. Steps shall be taken to ensure that inmates are not denied needed access while in disciplinary confinement.~~

~~(b) Written inmate requests for legal assistance shall be directed to the librarian and shall be responded to within 2 working days of receipt, not including the day of receipt. For purposes of this rule, "working day" shall mean any weekday not including holidays or weekends. Specific requests for cases, statutes or other reference materials, or requests for legal supplies or forms shall be responded to by means of correspondence. However, written inmate requests for legal assistance that are broad in scope, contain incorrect references~~

to research materials, or where the styling or content of the request indicates that the inmate lacks an understanding of the law or legal research, that the inmate is functionally illiterate, or that the inmate may be impaired, shall be responded to by personal interview with an inmate law clerk or the librarian.

(c) Inmates shall be limited to the receipt of no more than 15 research items from the law library at any one time. Research items are defined as photocopies of cases, statutes and other reference materials provided by the law library and do not include the inmate's personal legal papers, pleadings, or transcripts. Institutions shall require that inmates return all research materials supplied previously by the law library, or explain why some or all research materials issued previously must be retained, in order to receive additional materials. Institutions shall also limit the accumulation of research materials when possession of same in an inmate's cell creates a safety, sanitation or security hazard.

(d) Each institution shall establish a regular schedule for visits by inmate law clerks to the confinement area to provide assistance to inmates. The regular schedule shall require visits on at least 3 days each week. If security requirements prevent permitting a law clerk visit at the scheduled time, then the law clerk visit shall be rescheduled. Not less than 3 visits shall be conducted within any 7 day period.

(e) Illiterate and impaired inmates shall be permitted to request a visit with an inmate law clerk by making an oral request for same to the correctional staff working in the confinement unit. Upon receipt of an oral request, the correctional staff shall permit the inmate to visit with an inmate law clerk at the next scheduled law clerk visit.

#### (7) Law Library Access for Inmates on Death Row.

(a) Inmates on death row shall be permitted to have access to their personal legal files and law books, to correspond with the law library, to have the law library deliver legal materials to the inmate's cell, and to visit with certified inmate law clerks. Efforts shall be made to accommodate the research needs of inmates on death row who demonstrate that they need to meet a deadline imposed by law, rule or order of court.

(b) Inmates on death row who have court deadlines imposed by law, rule or order of court shall be provided opportunities to visit the law library in their unit or the main unit law library at least once per week for up to two hours in duration.

(c) Written inmate requests for legal assistance shall be directed to the librarian and shall be responded to within 2 working days of receipt, not including the day of receipt. For purposes of this rule, "working day" shall mean any weekday, not including holidays or weekends. Specific requests for cases, statutes or other reference materials, or requests for legal supplies or forms, shall be responded to by means of correspondence. However, written inmate requests for legal assistance that are broad in scope, contain incorrect references to research materials, or where the styling or content of the

request indicates that the inmate lacks an understanding of the law or legal research, that the inmate is functionally illiterate, or that the inmate may be impaired, shall be responded to by personal interview with an inmate law clerk or the librarian.

(d) Inmates shall be limited to the receipt of no more than 15 research items from the law library at any one time. Research items are defined as photocopies of cases, statutes, and other reference materials provided by the law library, and do not include the inmate's personal legal papers, pleadings, or transcripts. Institutions shall require that inmates return all research materials supplied previously by the law library, or explain why some or all research materials issued previously must be retained, in order to receive additional materials. Institutions shall also limit the accumulation of research materials when possession of same in an inmate's cell creates a safety, sanitation or security hazard.

(e) Each institution shall establish a regular schedule for visits by inmate law clerks to the confinement area to provide assistance to inmates. The regular schedule shall require visits on at least 3 days each week. If security requirements prevent permitting a law clerk visit at the scheduled time, then the law clerk visit shall be rescheduled. Not less than 3 visits shall be conducted within any 7 day period.

(f) Illiterate and impaired inmates shall be permitted to request a visit with an inmate law clerk by making an oral request for same to the correctional staff working in the confinement unit. Upon receipt of an oral request, the correctional staff shall permit the inmate to visit with an inmate law clerk at the next scheduled law clerk visit.

(4)(8) Major, Minor and Starter Collection Types, Locations, and Contents of Law Libraries. Major or minor collection law libraries shall be established at all institutions, annexes, work camps and forestry camps housing more than 400 inmates. Starter collection law libraries shall be established at institutions, work camps, forestry camps and road prisons housing less than 400 inmates and located 50 or more miles from the main unit of the institution or other institutions with major or minor law library collections.

(a) A major collection law library contains: an annotated edition of the Florida Statutes; an annotated edition of the U.S. Constitution and federal statutes governing habeas corpus and prisoner's rights; Florida and federal case reporters; Florida and federal Shepard's citation indexes; Florida and federal practice digests; forms manuals; and secondary source materials providing research guidance in the areas of federal habeas corpus, Florida post-conviction and post-sentence remedies, and prisoner's rights is a reference collection containing legal research titles recommended for inclusion in prison law libraries by the American Association of Law Libraries, as published in Recommended Collections for Prison and Other Institution Law Libraries (revised June, 1990). See Appendix One for a list of titles to be maintained in a major



collection law library. In determining whether a major collection shall be established at an institution, consideration shall be given to the following factors:

1. Population level;
2. Age of the inmate population ~~Utilization needs;~~
3. The transitory nature of the institution's inmate population;
4. The institution's proximity to other facilities with major collections;

5.3. Whether the institution has one or more of the following housing categories:

- a. Protective management;
- b. Close management; or
- c. Death row.

~~(b) Major collections shall be located at the following institutions:~~

1. ~~Apalachee Correctional Institution~~
2. ~~Avon Park Correctional Institution~~
3. ~~Baker Correctional Institution~~
4. ~~Broward Correctional Institution~~
5. ~~Calhoun Correctional Institution~~
6. ~~Central Florida Reception Center~~
7. ~~Century Correctional Institution~~
8. ~~Charlotte Correctional Institution~~
9. ~~Columbia Correctional Institution~~
10. ~~Cross City Correctional Institution~~
11. ~~Dade Correctional Institution~~
12. ~~DeSoto Correctional Institution~~
13. ~~Everglades Correctional Institution~~
14. ~~Florida Correctional Institution~~
15. ~~Florida State Prison Main Unit~~
16. ~~Glades Correctional Institution~~
17. ~~Gulf Correctional Institution~~
18. ~~Hamilton Correctional Institution~~
19. ~~Hardee Correctional Institution~~
20. ~~Hendry Correctional Institution~~
21. ~~Holmes Correctional Institution~~
22. ~~Jackson Correctional Institution~~
23. ~~Jefferson Correctional Institution~~
24. ~~Lake Correctional Institution~~
25. ~~Liberty Correctional Institution~~
26. ~~Madison Correctional Institution~~
27. ~~Marion Correctional Institution~~
28. ~~Martin Correctional Institution~~
29. ~~Mayo Correctional Institution~~
30. ~~New River Correctional Institution~~
31. ~~North Florida Reception Center~~
32. ~~Okaloosa Correctional Institution~~
33. ~~Okeechobee Correctional Institution~~
34. ~~Polk Correctional Institution~~

35. ~~Santa Rosa Correctional Institution~~
36. ~~South Florida Reception Center~~
37. ~~Sumter Correctional Institution~~
38. ~~Taylor Correctional Institution~~
39. ~~Tomoka Correctional Institution~~
40. ~~Union Correctional Institution~~
41. ~~Wakulla Correctional Institution~~
42. ~~Walton Correctional Institution~~
43. ~~Washington Correctional Institution~~
44. ~~Zephyrhills Correctional Institution~~

~~(b)(e) A minor collection law library contains: an annotated edition of the Florida Statutes; Florida case reporters; Shepards Florida Citations; Florida and federal practice digests; an annotated edition of the U.S. Constitution and federal statutes governing habeas corpus and prisoner's rights; forms manuals; and secondary source materials providing research guidance in the areas of federal habeas corpus, Florida post-conviction and post-sentence remedies, and prisoner's rights is a reference collection containing the Florida statutes, case law, citation indexes, practice digests, federal practice digests, an abridged set of the federal statutes and a variety of secondary source materials recommended for inclusion in prison law libraries by the American Association of Law Libraries. See Appendix Two for a list of all titles to be maintained at all minor collection law libraries. A minor collection law library shall be established at all institutions, annexes, and community facilities with lawful inmate capacities of more than 400 which do not have major collection law libraries.~~

~~(c)(d) A starter collection law library contains: an annotated edition of the Florida Statutes; an annotated edition of the Title 42, United States Code, Section 1983; the Florida and federal rules of court; and a legal dictionary is a basic reference collection for research in Florida law. See Appendix Three for a list of all titles to be maintained at all starter collection law libraries. A starter collection law library shall be established at institutions, work camps, forestry camps, road prisons, vocational centers, and drug treatment centers, with maximum inmate capacities up to 400 and located 50 or more miles from the main unit of the institution or other institutions with major or minor law library collections. Starter collections shall be located in the following institutions and facilities:~~

1. ~~Big Pine Key Road Prison~~
2. ~~Franklin Work Camp~~

~~(e) Attachments:~~

1. ~~Appendix One: Title list for major collection law libraries.~~
2. ~~Appendix Two: Title list for minor collection law libraries.~~
3. ~~Appendix Three: Title list for starter collection law libraries.~~

~~(d)(f)~~ Major and minor collection law libraries shall also maintain current copies of the following departmental rules and regulations:

1. Rules of the Florida Department of Corrections;
2. Department of Corrections Policy and Procedure Directives and Procedures, except those that the Office of the Secretary has directed be withheld from inspection by inmates for security reasons;
3. Institutional operating procedures, except those that the Office of the Secretary or the regional director has directed be withheld from inspection by inmates for security reasons. No law library collection shall include departmental Department of Corrections or institutional emergency plans, security post orders, or departmental operations manuals.

~~(e)(g)~~ No change.

~~(h)~~ A law collection shall not be established at Corrections Mental Health Institution. Inmates at that institution shall secure legal assistance from the law library located at River Junction Correctional Institution. The law library at River Junction Correctional Institution shall include additional legal research materials that address the unique legal needs of forensic inmates, and the inmate law clerks at River Junction Correctional Institution shall visit Corrections Mental Health Institution at least 3 times per week to provide inmates with legal assistance.

~~(f)(i)~~ Law collections shall not be established at work release community correctional centers or other community-based facilities. Inmates at those facilities shall secure legal assistance by means of correspondence with a major or minor law collection, by visits to attorneys, legal aid organizations or law libraries in the community, or by transportation or temporary transfer to an institution with a major or minor law collection.

~~(g)(j)~~ The contents of legal collections shall be reviewed annually by the library services administrator to ensure continued compliance with applicable federal and state laws and American Correctional Association standards that major collection law libraries continue to comply with the recommendations of the American Association of Law Libraries and to determine whether additional titles should be added to minor or starter collection law libraries. When the library services administrator believes that titles need to be added or deleted from the collections, he or she shall make such recommendation to the director of program services. If the director of program services approves the request, the material shall be ordered and placed in the appropriate law library collections. The location of legal collections shall be reviewed to determine whether new collections should be established, or whether existing major, minor, or starter legal collections should be upgraded, downgraded, moved, or disbanded. Reviews shall be conducted using the criteria established in sections (8)(a), (8)(b), (8)(c), (8)(d), and (8)(k) of this rule.

~~(k)~~ On the recommendation of the library services administrator, the assistant secretary for education and job training may authorize exceptions to the criteria establishing the type of law library that an institution shall receive, as provided in (8)(a), (8)(b), (8)(c) and (8)(d). Exceptions shall be approved based on a review of the following factors:

1. Characteristics of the institution's inmate population that evidences a need for unique legal research materials;
2. The transitory nature of the institution's inmate population;
3. The institution's mission;
4. The institution's proximity to other facilities with legal collections;
5. A continuing pattern of heavy or light usage of the law library or interlibrary loan services as evidenced through analyses of monthly law library reports.

~~(h)(l)~~ Requests for the addition or deletion of titles in major, minor, and starter law library collections shall be submitted in writing to the law library services administrator in the central office. The law library services administrator shall review all requests and make a recommendation to the director of program services assistant secretary for education and job training. Requests shall be reviewed according to the material's primary research value and whether it supplements what is currently in the collection or substantively provides additional information, or merely duplicates what is in the current collection. If the request is approved, the attachments referenced in section (8)(c) shall be amended and copies distributed to all institutions and facilities of the department and to all law libraries, and the materials shall be ordered and placed in the appropriate law library collections.

~~(m)~~ Institutions are permitted to purchase supplemental materials for inclusion in their legal collections. However, all requests to purchase legal materials, except for replacement volumes, shall be submitted by the warden or his designee in advance to the law library services administrator for review and approval. Requests shall be reviewed according to the criteria established in subsection (8)(l).

~~(i)(n)~~ Each minor and major collection law library shall maintain a list of all titles in the law library collection at the law library's circulation counter and shall make it available to inmates upon request. Inmates shall also be provided copies of this list upon request at no charge. Law libraries may distribute copies of Appendix One or Two of this section, as appropriate, to satisfy this requirement.

~~(5)(9)~~ Interlibrary Loan Services for Law Libraries.

~~(a)~~ Institutions without legal collections shall be served by an institution with a major law collection. Inmates located at these institutions shall submit a written request for legal assistance to the chief, officer in charge, or other designated staff member. Written inmate requests for legal assistance that contain incorrect references to research materials, or contain styling or content that indicates that the inmate lacks an

understanding of the law or legal research or is functionally illiterate or impaired, that involves complex or multiple legal issues or a need for ongoing access to legal materials, shall be responded to by personal interview to include telephonic consultation with the librarian at the major collection. Within 2 working days of receipt of a written request or the conducting of a personal interview, not including the day of receipt or interview, the appropriate staff member shall request that the librarian or law library supervisor at a major collection law library assign an inmate law clerk to assist the inmate. When a personal interview with the inmate and consultation with the librarian at the major collection indicates that the inmate's request can not be resolved by means of correspondence then the inmate shall be transported to an institution with a major law collection or shall be temporarily transferred to that institution in order to secure assistance from inmate law clerks or research the legal collection. If circumstances preclude transfer of an individual inmate, other measures shall be taken to ensure that the inmate's need for legal assistance is met.

(b) If information is not available to inmates located at facilities with minor and starter collections, then they shall request research assistance from a major collection law library. Inmates located at these institutions shall submit a written request for legal assistance to the librarian or other designated staff member. Written inmate requests for legal assistance that contain incorrect referenees to research materials, or contain styling or content that indicates that the inmate lacks an understanding of the law or legal research or is functionally illiterate or impaired, that involves complex or multiple legal issues or a need for ongoing access to legal materials, shall be responded to by personal interview to include telephonic consultation with the librarian at the major collection. Within 2 working days of receipt of a written request or the conducting of a personal interview, not including the day of receipt or interview, the librarian shall request that the librarian or law library supervisor at the nearest major collection law library assign an inmate law clerk to assist the inmate. When a personal interview with the inmate and consultation with the librarian at the major collection indicates that the inmate's request can not be resolved by means of correspondence then the inmate shall be transported to an institution with a major law collection or shall be temporarily transferred to that institution in order to secure assistance from inmate law clerks or research the legal collection. If circumstances preclude transfer of an individual inmate, other measures shall be taken to ensure that the inmate's need for legal assistance is met.

(a)(e) ~~Institutions with M~~major collection law libraries shall provide research assistance to inmates at institutions with minor and starter collections libraries and to inmates housed at ~~community correctional centers and other community-based facilities~~ without law libraries. On receipt of a written request for legal assistance, the librarian shall immediately assign a research aide ~~an inmate law clerk~~ to provide assistance. All assistance that can be provided through use of that institution's

major collection shall be completed within 3 working days of receipt, not including the day of receipt, not including the day of receipt, except where the request requires the researching of complex or multiple legal issues or is so broad in scope that work can not be initiated without further information from the requesting inmate, in which case the requesting inmate shall be advised and given an estimated time of completion. If the major collection does not have the information in its collection, then within 3 working days of receipt it shall forward the request to the institution law libraries designated by the law library services administrator to process interlibrary loan requests to law libraries outside the department, and shall advise the inmate that the request has been so forwarded. If the information is not available at these law libraries, then within 2 working days of receipt, not including the day of receipt, the law library supervisors at those facilities shall request such information through interlibrary loan from the Florida State University law library or other law libraries outside the department and shall advise the inmate that such a request has been made. Completed work received from these law libraries shall be placed in return mail to the librarian, law library supervisor, or other designated staff within 24 hours of receipt.

(b) Minor and starter collection law libraries and inmates at correctional facilities without law libraries shall be provided research assistance by major collection law libraries. Inmates located at these facilities who need access to legal research materials only available in major collection law libraries, or who need research assistance, shall submit a written request for the material or assistance to the librarian or to the chief correctional officer if there is no librarian at the facility. Within two working days of receipt of a written request, not including the day of receipt, the librarian or chief correctional officer shall forward the request to the librarian at a major collection law library for completion.

(c) Inmate requests to secure law materials not in the department's major collection libraries shall be submitted to the library services administrator for review and approval. Only requests for primary source materials, such as statutes, rules, and court decisions, that relate to Florida criminal law, Florida post-conviction and post-sentence remedies, federal habeas corpus, or the rights of prisoners, shall be approved.

1. Inmates needing such materials are to submit a written request to the institution's librarian or law library supervisor. The written request is to include the full and complete citation of the material needed, and a written justification on why the material is needed to litigate any of the above types of actions. If any deadlines apply, the date of the deadline is to be noted on the written request. The librarian or law library supervisor is then to forward the request to the library services administrator in the central office. The correct mailing address is: Department of Corrections, ATTN: Library Services, 2601 Blair Stone Road, Tallahassee, FL 32399-2500.

2. When requests are received, they shall be reviewed by the department's library services administrator. If the request is disapproved, the reason for disapproval will be noted on the request and the request shall be returned to the requesting law library. If the request is approved, the request shall be forwarded to the Florida State University law library for completion. When the completed work is received from Florida State University, it shall be mailed to the requesting law library.

~~(d)~~ Librarians and other designated staff persons supervising law libraries shall maintain a tracking file for all interlibrary loan requests submitted to other law libraries. Whenever a response has not been received from a lending law library within 7 calendar days, the librarian or other designated staff person shall contact the librarian or law library supervisor at the lending facility to ascertain the status of the request.

~~(d)(e)~~ Inmates with deadlines imposed by law, rule or order of court in legal proceedings challenging convictions and sentences or prison conditions shall be given priority in the handling of interlibrary loan requests, and such requests shall be submitted separately from requests not involving deadlines. Requests for interlibrary loan service involving inmates with deadlines shall be submitted to other law libraries by DC electronic mail, fax, or by telephone. The interlibrary loan request shall include a reference to the court deadline and provide the date of the deadline.

~~(e)(f)~~ Materials received pursuant to an interlibrary loan request ~~is~~ are the property of the law library and not the personal property of the inmate who requested ~~it~~ the materials. The materials shall not be removed from the law library without the written approval of the law library supervisor.

~~(f)(g)~~ No change.

~~(6)(10)~~ Use of Inmates as Research Aides ~~law clerks~~.

(a) Major and minor collection law libraries shall be assigned inmates as clerks and research aides to assist the librarian or law library supervisor in the operation of the law library program, to assist the inmate population in the research and use of the law library collection, and to assist inmates in the drafting of legal documents, legal mail and grievances. ~~Inmates assigned to work in law libraries shall be classed as follows: library clerk, law clerk trainee, and law clerk-certified.~~

1. Library clerk: When assigned to work in a law library, a library clerk's primary duty is to perform work of a clerical nature, such as circulating legal materials, ~~typing or~~ photocopying inmate legal documents, maintaining law library files, keeping the law library clean and orderly, and assisting the librarian or law library supervisor in collecting statistics, typing reports and other job related activities as requested. Inmates assigned to the law library as library clerks shall not be required to complete the research aide law clerk training program.

~~2. Law clerk trainee: A law clerk trainee's primary duty is to secure knowledge in the techniques of legal research and writing, use of specific legal research materials, the law and rules of criminal law and post-conviction remedies, civil rights, and other subject matter identified by the law library services attorney as necessary for an inmate law clerk to provide meaningful assistance to inmates. The law clerk trainee may be assigned work of a purely clerical nature and may assist inmates in research of the legal collection, provided that such does not interfere with the training process. Inmates assigned as law clerk trainees shall not assist inmates in the preparation of legal documents and legal mail, nor shall they be used in conducting confinement visits unless they are accompanied by a law clerk-certified.~~

~~2.3. Research aide Law clerk-certified: Inmates assigned to this position must have successfully completed the Department of Corrections' research aide law clerk training program. The primary work responsibility of a research aide law clerk-certified is to assist inmates in conducting legal research and preparing legal documents and legal mail associated with the filing of post-conviction petitions filed in the state or federal courts, civil rights actions filed in the state or federal courts, administrative actions filed with the Florida Parole Commission or the Florida Bar, and inmate grievances filed with the Department of Corrections. A research aide law clerk-certified shall be permitted to assist inmates in open population, in confinement, at work camps, or at institutions without law libraries in legal research and the preparation of the aforesaid legal documents. Only a research aide law clerk-certified shall assist inmates in preparing legal documents and legal mail, in researching or responding to interlibrary loan requests, or in making visits to inmates in confinement.~~

~~(b) A minimum of two research aides shall be assigned to major and minor collection law libraries in youthful offender institutions. Institutions shall assign additional research aides to the law library as needed to ensure that illiterate and impaired inmates are provided research assistance. Library clerks shall be assigned to the law library as needed to perform work of a clerical nature and for training as research aides. Inmate Staffing Requirements—Adult Institutions:~~

~~1. Library Clerk: shall be assigned to the law library as needed to perform work of a clerical nature.~~

~~2. Law Clerk Trainee (L03) and Law Clerk-Certified (L04):~~

~~a. A minimum of 2 certified law clerks shall be assigned to the law library. Additional certified law clerks and law clerk trainees shall be assigned at the rate of 1 for every 300 inmates in open population and protective management, to include inmates housed in annexes, work camps and other satellite facilities if major or minor collection law libraries are not located at those sites;~~

b. A minimum of 1 additional clerk shall be assigned if the institution has an administrative and disciplinary confinement, close management, or death row unit housing 50 or more inmates. If the population of these units exceeds 50 inmates, then additional inmate law clerks shall be assigned at the rate of 1 for every 100 inmates;

e. At least 1 additional clerk shall be assigned if the institution's law library has been designated as a regional resource center, or if it provides interlibrary loan services to an institution, annex, or community facility with a minor collection law library.

At reception centers, inmates in "reception and orientation" status shall not be counted in the institution's population for purposes of computing clerk staffing.

d. Institutions shall assign additional clerks to the law library as needed, to ensure that requests for assistance are responded to within the time frames established in this chapter.

(e) Inmate Staffing Requirements — Youthful Offender Institutions. A minimum of 2 adult inmates, who have been certified as inmate law clerks by the law library services attorney, shall be assigned to work in the law library at least 3 days per week to provide research assistance to youthful offenders.

(c)(d) Qualifications. Research aides In order to be assigned as a law clerk trainee or law clerk certified, an inmates shall:

1. Have a high school diploma or general equivalency diploma (GED), or TABE (Test of Adult Basic Education) total battery scores in reading and language of grade 9.0 or higher or otherwise demonstrate successfully complete a performance-based evaluation instrument that demonstrates that he or she the inmate possesses the reading and language skills necessary to read; and understand; and research the law, to conduct legal research, and to assist other inmates in legal research and the preparation of legal documents.

2. Have a release date that indicates that he or she has sufficient time remaining on his or her sentence to complete the research aide law clerk training program and to perform work in the law library;

3. Have a satisfactory ~~good~~ record of institutional adjustment as evidenced by having no more than 2 disciplinary reports within the previous 12 months;

4. Display good character without abusing the authority of the position, a willingness to work and cooperate with others; and the ability to perform the general duties of a research aide law clerk, including good oral and written communication skills, good comprehension and intelligence.

(d)(e) Research Aide Law Clerk Training Program. ~~The~~ A legal research training curriculum shall be developed by the law office of library services attorney to assist inmate law clerks in acquiring a basic shall develop a training program to provide inmates who work in law libraries with knowledge in the techniques of legal research and writing, use of specific

legal research materials, the law and rules of criminal law and post-conviction remedies, prisoners' civil rights, and other subject matter identified as necessary for a research aide an inmate law clerk to provide meaningful assistance to inmates. The legal research training program shall consist of:

1. A seminar taught by legal practitioners that provides law clerk trainees instruction in legal research and writing, use of specific legal research materials, the law and rules of criminal law and post-conviction remedies, civil rights, and other subject matter identified by the law library services attorney as necessary for an inmate law clerk to provide meaningful assistance to inmates. The seminar shall include live instruction by legal practitioners, practice exercises, writing assignments, and a final examination;

2. A research guide developed under the direction of the law library services attorney;

3. ~~Videotaped presentations on legal research, Shepardizing, post-conviction remedies, prisoners' rights, and other areas designated by the law library services attorney;~~

4. Other research tools as developed by the law library services attorney.

(e)(f) Training Requirements.

1. Inmates ~~All~~ law clerk trainees who have no formal training in legal research and who wish to work as research aides shall be required to successfully complete the legal research aide training program. ~~Immediately upon assignment to the law library, the inmate shall be provided a copy of the research guide and shall be required to review it and the videotape program presentations. Unless authorized by the law library services attorney, an inmate assigned as a law clerk trainee shall not attend the law clerk training seminar until after he or she has worked in a law library a minimum of 90 days.~~

2. Successful completion of the research aide law clerk training program shall be evidenced by verification by the institution librarian that the inmate has reviewed the research guides and other research tools ~~and viewed the videotaped program presentations~~, attendance at the research aide law clerk training seminar, completion of all writing assignments and practice exercises included as part of the research aide law clerk training seminar, and receipt of a passing score (80%) on the research aide law clerk training seminar's final examination.

3. Inmates who successfully complete the research aide law clerk training seminar shall be given a certificate by the office of law library services attorney documenting successful completion of the program, and a notation shall be recorded in the department's offender database. Any inmate who fails to pass the final examination, who does not demonstrate possession of good written communication skills, or who demonstrates incompetence as defined in this section (10)(i)7- ~~of this rule~~, shall be immediately removed from his or her work assignment in the law library.

~~4.3. Inmates who have been awarded an associate degree or certificates of completion in paralegal research, a bachelors degree in pre-law, or a juris doctorate degree, shall not have to attend the research training program to be certified as a research aide. The office of library services shall certify any such inmate upon verification of educational achievements and a determination that he or she possesses current knowledge of the law, knowledge of legal research materials and how to use them, and can communicate effectively in writing who were certified through use of previous Department of Corrections certification procedures, or who were licensed to practice law in any state or in the federal courts shall be certified by the law library services attorney if they present proof of their educational attainments, licensure, or work experience, and if they possesses good written communication skills.~~

~~(f)(g) Law clerk training seminars shall be conducted as often as needed to ensure that all major and minor collection law libraries comply with the minimum staffing requirements established in sections (10)(b) and (10)(c) of this rule. The office of law library services attorney shall be responsible for the scheduling of research aide law clerk training seminars. When seminars are scheduled, institutions shall be notified of the upcoming training, and requested to identify inmates in need of training. The law library services administrator attorney shall review the requests and verify that the inmates satisfy the minimum qualifications established in section (6)(c) (10)(d); only inmates who meet the minimum qualifications shall be accepted for training. No inmate shall attend the research aide training program unless his or her participation has been approved by the library services administrator. The office of law library services attorney shall arrange for the then forward the names of those inmates to the Office of Population Management for temporary transfer of the approved inmate participants to the institution where the seminar is to be conducted.~~

~~(g)(h) At the time of an inmate's assignment to work in the law library, the librarian or law library supervisor shall advise the inmate that he or she is not to disclose any information about an inmate's legal case to other inmates. The inmate shall also be advised that violation of this policy shall be cause for removal from his or her work assignment in the law library.~~

~~(h)(i) Prohibited Conduct: Research Aides Inmate Law Clerks. Violation of any of the provisions of this section shall result in the immediate removal of the research aide from his or her work assignment in the law library, and disciplinary action pursuant to rules 33-601.301-.314. The library services administrator will be informed whenever an institution removes a research aide from the law library for any of the below reasons.~~

~~1. Research aides Inmate law clerks shall not act as legal representatives or in any way appear to be engaged in the unauthorized practice of law, to include participation in judicial and administrative hearings or telephonic hearings conducted for other inmates;~~

~~2. Research aides Inmate law clerks shall not sign or include their names, work assignment title, or a reference to certification as a research aide law clerk or trained paralegal in any legal document, legal mail, privileged mail, routine mail, or grievance prepared on behalf of an inmate;~~

~~3. Research aides Inmate law clerks shall not include their work assignment title or a reference to certification as a research aide law clerk or trained paralegal in the return address of their outgoing correspondence, or in legal documents, legal mail, privileged mail, routine mail and grievances;~~

~~4. Research aides Inmate law clerks shall not use department or institution letterhead stationary or memoranda to prepare letters or legal documents;~~

~~5. Research aides Inmate law clerks shall not charge nor shall they receive payment of any kind for providing legal assistance to inmates;~~

~~6. Research aides Inmate law clerks shall not disclose information about an inmate's legal work to other inmates;~~

~~7. Research aides shall not conduct legal research or prepare legal documents for staff;~~

~~8.7. Demonstrated incompetence: the research aide inmate law clerk has demonstrated that he or she lacks the knowledge, skills and ability to function as a research aide law clerk, as evidenced by a demonstrated inability to research and use the law library collection, to assist inmates in the preparation of legal documents, or legal mail or grievances, or to provide inmates with accurate information on the law and civil or criminal procedure.~~

~~Violation of any of the provisions of this section shall result in the immediate removal of the inmate law clerk from his or her work assignment in the law library, and disciplinary action pursuant to rules 33-601.301-601.314. The law library services attorney will be informed whenever an institution removes a Law Clerk-Certified from the law library for any of the above reasons.~~

~~(i)(j) Upon receipt of notice that a research aide Law Clerk-Certified has been charged with a disciplinary infraction for violation of any of the provisions of this subsection (j), and has been found guilty of same, the law library services administrator attorney will review the matter to determine whether the inmate's research aide law clerk training certificate should be revoked. The determination as to whether the inmate's certificate shall be revoked shall be based on a consideration of the following factors: the findings of the disciplinary report; discussions with institution staff about the infraction; a record of prior counseling or disciplinary action for violation of the provisions of this subsection (j); a record of multiple violations of the provisions of this subsection (j); and a determination that the violations of this subsection (j) were intentional rather than inadvertent. If the law library services administrator attorney determines that revocation is warranted, the certificate entry will be deleted from the offender database,~~

and a notation notice that the inmate's research aide law clerk certificate has been revoked shall be placed in the inmate's central office and institution file.

~~(j)(4)~~ No action shall be taken against a research aide an inmate law clerk for assisting, preparing, or submitting legal documents to the courts or administrative bodies, to include grievances and civil rights complaints against the department or staff. Good faith use or good faith participation in the administrative or judicial process shall not result in formal or informal reprisal against the research aide inmate law clerk.

~~(k)(4)~~ A research aide An inmate law clerk who wishes to correspond in writing with research aides law clerks at other institutions regarding legal matters shall be required to obtain prior approval from the warden at his or her institution. The approved correspondence shall be mailed through institution mail from one librarian or law library supervisor to another librarian or law library supervisor. Research aides Law clerks shall communicate with each other over the telephone only under the direct supervision and monitoring of the librarian or law library supervisor, and only when all other methods of communication have failed, or when necessary to expedite interlibrary loan service.

~~(l)(m)~~ Research aides Inmate law clerks shall give all work files to inmates who are being transferred or released. If the research aide law clerk is unable to give the inmate the file prior to transfer, he or she shall give it to the librarian or law library supervisor. As soon as the inmate's destination is known, the librarian or law library supervisor shall forward the file to the librarian, law library supervisor, or other designated employee at the inmate's new location for forwarding to the inmate. If the inmate has been released from the custody of the Department of Corrections, then the librarian or law library supervisor shall give the file to the institution's inmate property officer for return to the released inmate.

~~(m)(n)~~ The librarian or law library supervisor at the institution from which an inmate is transferred may authorize a research aide an inmate law clerk at that institution to continue assistance to the transferred inmate on a pending matter if the inmate's new institution or facility does not have a major or minor collection law library when the inmate law clerk has already done a substantial amount of research on the matter, and the amount of assistance that remains is minimal, and the inmate requests continued receiving assistance in writing signs an authorization to that effect.

(n) The office of library services shall suspend the research aide certificates of inmates when two years have passed since they worked in law libraries as research aides. Whenever a research aide certificate is suspended, the office of library services shall remove the certificate entry from the offender database. Provided that no more than five years have passed since an inmate has worked as a research aide, a librarian or law library supervisor may request that an inmate's suspended research aide certificate be reinstated. In such cases,

the office of library services shall require that the inmate demonstrate, through successful completion of a written examination, that he or she still possesses current knowledge of the law, knowledge of legal research materials and how to use them, and can communicate effectively in writing. If the inmate demonstrates to the office of library services that he or she still has the requisite knowledge and skills to work as a research aide, the suspension shall be lifted and the research aide certificate shall be re-entered in the offender database.

(o) The office of library services shall revoke the research aide certificates of inmates when five or more years have passed since they worked in law libraries as research aides. Whenever a research aide certificate is revoked, the office of library services shall remove the certificate entry from the offender database. Such action is not deemed to be judgemental or prejudicial. However, inmates shall be required to attend and successfully complete the research aide training program to be re-certified as research aides.

~~(7)(11)~~ Circulation and control of legal materials.

(a) No change.

(b) The law library's shelves shall be closed to direct access by inmates not assigned as library clerks or research aides inmate law clerks. Inmates needing access to legal materials shall direct a request to a library an inmate law clerk or research aide who shall then retrieve the material and issue it to him or her. Inmates shall sign for all legal research materials issued to them for use in the law library or library. At a minimum, inmates shall be permitted to sign out at least 1 case reporter and 1 other volume at any one time.

(c) No change.

~~(8)(12)~~ Court Forms Supply Services.

~~(a)~~ All law libraries shall provide inmates access to Department of Corrections grievance forms and forms needed to prepare Rule 3.800 and Rule 3.850, Florida Rules of Criminal Procedure, post-conviction relief petitions. Federal habeas corpus, affidavits of insolvency, and civil rights complaint forms shall only also be supplied if copies of same are provided to the law library by the federal courts. In all instances, law libraries are obligated to provide only one copy of the form. If additional copies are required for submission to the courts, the inmate shall secure them using the procedures established in section 33-602.405.

~~(b)~~ Institutions shall provide white paper and pens to prepare and submit legal documents and legal mail for those inmates without necessary funds to purchase their own paper and pen.

~~(13)~~ Copying Services.

~~(a)~~ All institutions and facilities shall provide photographic copying services to inmates submitting legal documents and accompanying evidentiary materials to courts and administrative bodies. Rules regulating the provision of copying services to inmates are established in section 33-602.405.

(b) Copying machines shall be in the law library or in close proximity to the law library in institutions having major law collections. Minor collection law libraries shall be allowed access to a photocopier machine to provide photographic copying services to inmates, as established in section 33-602.405, and to provide research assistance to inmates in confinement.

(14) Notary Service. Institutions shall provide notary service to inmates who have legal material that requires notarization. Rules regulating the provision of notary service to inmates are established in section 33-210.102.

(9)(15) Reports. All institutions having major and minor law libraries shall prepare a monthly law library report detailing at a minimum the days and hours that the law library was open to inmate use, the circulation of law library materials, the volume of legal services provided to inmates, the number of research aides inmate law clerks on staff, and legal materials added to the law library collection during the month. This report shall be submitted to the library services administrator by the tenth day of each calendar month for the previous month's activities. The library services administrator shall be responsible for developing the report and for disseminating instructions to all institutions for accurately completing the report.

(16) Monitoring and Evaluation of Law Library Programs.

(a) The warden of the institution shall be responsible for day-to-day monitoring of the law library program and other institution programs or departments that provide legal services to inmates and ensuring that all requirements of this rule are adhered to.

(b) The library services administrator and the law library services attorney in the Office of the Assistant Secretary for Education and Job Training shall be responsible for the statewide coordination and monitoring of institutional law libraries and related legal services. The library services administrator and the law library services attorney share responsibility for the review of department policy and procedure as it relates to the operation of law library programs and the monitoring and evaluation of law library programs and services.

(c) The library services administrator shall be responsible for:

1. Managing the statewide purchase of all legal research materials required by this rule for all law libraries;
2. Monitoring of law library acquisitions and inventories to ensure that they are current and complete;
3. Providing guidance and in-service training to librarians on issues related to management of law library programs and services;
4. Collecting data on the operation of law library programs and the provision of law library services;

5. Investigating and responding to inmate grievances and correspondence involving the operation of law library programs;

6. Reviewing the contents of the department's law library collections at least annually and making recommendations regarding same to the assistant secretary for education and job training;

7. Reviewing requests from institutions to add supplemental legal materials to their law library collections.

(d) The law library services attorney is responsible for:

1. Managing all activities related to the training of inmate law clerks, to include development of a training curriculum for the training program, monitoring of training activities, and reviewing the training program at least annually to ensure that it remains current and appropriate to the needs of inmates;

2. Monitoring the performance of inmate law clerks to assess the appropriateness of training topics included in the law clerk training program;

3. Investigating and responding to inmate grievances and correspondence involving law clerk assistance to inmates;

4. Developing and ensuring the conduct of in-service training programs for librarians, law library supervisors, and other staff on legal research and the inmate law clerk training program;

5. Reviewing department rules, operating procedures and operations manuals relating to the training of inmate law clerks at least annually and recommending revisions as required;

(e) The library services administrator, law library services attorney, or library services assistant administrator shall periodically visit each law library program to ensure that the legal collections are current and complete, to ensure that all required services to inmates are being provided in a timely manner, and to ensure that all inmate law clerks are qualified to provide research assistance to inmates.

(f) The library services administrator and library services assistant administrator shall be professional librarians with experience in managing institutional library and law library programs, and the law library services attorney shall have a Juris Doctorate degree from an accredited college of law and shall be a member of the Florida Bar.

(17) Operating Procedures.

(a) Every institution with a major or minor collection law library shall develop an institutional operating procedure regulating the operation of the law library and inmate access to the law library in accordance with the requirements of this rule. At a minimum the operating procedure shall detail:

1. The location of the law library;
2. The type of law collection at the institution;
3. The hours of operation of the law library;
4. The procedure for circulating law library materials to inmates while in the law library;



5. The procedure for handling inmate requests for access to the law library collection and appropriate law library services based upon court deadlines;

6. The procedure to secure inmates interlibrary loan service, to include procedures to be followed by institution staff to ensure that materials requested by interlibrary loan to meet deadlines are secured for the inmate within the required time;

7. The procedure to provide inmates in confinement with access the law library and law library services, to include the schedule for visits by inmate law clerks to the confinement areas;

8. The procedure to provide inmates at work camps attached to institutions with access to the law library, law library services, and inmate law clerks, to include the schedule for visits by inmate law clerks to the work camp or visits by inmates at the work camp to the law library in the main unit;

9. The procedure to provide inmates with access to interpreters when language barriers hinder access to the legal collection or communication with inmate law clerks;

10. The procedure to provide inmates with copying services;

11. The procedure to provide inmates with access to grievance and court forms;

12. The procedure to provide insolvent inmates needing to prepare legal documents and legal mail with access to white paper and pens;

13. The procedure to provide inmates with access to notary service.

(b) The operating procedure shall be approved by the at each institution and reviewed at least annually. Whenever the operating procedure on the law library is revised a copy shall be submitted to the library services administrator in the central office for review and approval to ensure that the institutional policy and procedure is in compliance with the requirements of this rule.

Specific Authority 20.315, 944.09, 944.11 FS. Law Implemented 944.09, 944.11 FS. History—New 4-6-93, Amended 7-3-94, 11-2-94, 4-28-96, 9-30-96, 12-7-97, Formerly 33-3.0055, Amended 2-15-01, \_\_\_\_\_.

#### APPENDIX ONE

#### TITLE LIST FOR MAJOR COLLECTION LAW LIBRARIES

1. Prisoners and the Law, by Robbins. (Clark Boardman).
2. Jailhouse Lawyer's Manual. (Columbia Human Rights Law Review).
3. Florida Criminal Sentencing Law, by Davidson. (D & S Publishing).
4. Volume 12: Chapter 23, Florida Parole commission. Florida Administrative Code Annotated. (Darby Publishing).
5. Guide to Florida Legal Research, by Stupski. (Florida Bar Association).

6. Legal Forms and Worksheets. (Florida Bar Association).

7. Florida Criminal Law and Procedure, by Adkins. (Harrison).

8. Uniform System of Citation. (Harvard Law Review Association).

9. Florida Law Weekly—Federal. (Judicial & Admin. Research Assoc.).

10. Florida Law Weekly. (Judicial & Admin. Research Assoc.).

11. Florida Jurisprudence, 2nd. (Lawyer's Cooperative).

12. Florida Pleading and Practice Forms, 2nd. (Lawyer's Cooperative).

13. Florida Bar Journal

14. Federal Habeas Corpus, by Liebman. (Michie).

15. Legal Research: How to Find and Understand the Law, by Elias. (Nolo Press).

16. Post Conviction Remedies: A Self-Help Manual, by Manville. (Oceana).

17. Prisoners' Self-Help Litigation Manual, by Manville. (Oceana).

18. Spanish—English Legal Terminology, by Vanson. (Scott Forsman).

19. Shepard's Federal Citations. (Shepard's).

20. Shepard's Florida Citations. (Shepard's).

21. Shepard's U.S. Citations. (Shepard's).

22. Florida Statutes. (State of Florida).

23. Black's Law Dictionary. (West).

24. Federal Civil Judicial Procedure and Rules. (West).

25. Federal Criminal Code and Rules. (West).

26. Federal Reporter 2nd. Previous 20 years to date. (West).

27. Federal Supplement. Previous 20 years to date. (West).

28. Florida Cases. 1941 to Date. (West).

29. Florida Criminal Law and Rules. (West).

30. Florida Digest 2nd. (West).

31. Florida Evidence, by Ehrhardt. (West).

32. Florida Rules of Court—State & Federal. (West).

33. Florida Session Laws. (West).

34. Florida Statutes Annotated. (West).

35. How to Find the Law, by Cohen. (West).

36. Law of Corrections and Prisoners' Rights, by Krantz. (West).

37. Legal Research in a Nutshell, by Cohen. (West).

38. Supreme Court Reporter. Previous 20 years to date. (West).

39. U.S. Code Annotated, in part: Constitution and Amendments; Title 28, Section 2254; Title 42, Section 1983. (West).

40. West's Federal Practice Digest, 4th. and 3rd. (West).

- 41. ~~West Spanish-English/English-Spanish Law Dictionary. (West).~~
- 42. ~~Florida Appellant Practice, by Padovano. (West).~~
- 43. ~~Florida Criminal Law and Practice, by Crawford. (West).~~
- 44. ~~Florida Post Sentencing, by Daley. (Capital Legal Publishers).~~
- 45. ~~Rights of Prisoners. (Clark Boardman).~~

**APPENDIX TWO  
TITLE LIST FOR MINOR COLLECTION  
LAW LIBRARIES**

- 1. ~~Prisoners and the Law, by Robbins. (Clark Boardman).~~
- 2. ~~Jailhouse Lawyer's Manual. (Columbia Human Rights Law Review).~~
- 3. ~~Florida Criminal Sentencing Law, by Davidson. (D & S Publishing).~~
- 4. ~~Guide to Florida Legal Research, by Stupski. (Florida Bar Association).~~
- 5. ~~Legal Forms and Worksheets. (Florida Bar Association).~~
- 6. ~~Florida Criminal Law and Procedure, by Adkins. (Harrison).~~
- 7. ~~Uniform System of Citation. (Harvard Law Review Association).~~
- 8. ~~Florida Law Weekly - Federal. (Judicial & Admin. Research Assoc.).~~
- 9. ~~Florida Law Weekly. (Judicial & Admin. Research Assoc.).~~
- 10. ~~Florida Jurisprudence, 2nd. (Lawyer's Cooperative).~~
- 11. ~~Florida Pleading and Practice Forms, 2nd. (Lawyer's Cooperative).~~
- 12. ~~Federal Habeas Corpus, by Liebman. (Michie).~~
- 13. ~~Legal Research: How to Find and Understand the Law, by Elias. (Nolo Press).~~
- 14. ~~Post-Conviction Remedies: A Self-Help Manual, by Manville. (Oceana).~~
- 15. ~~Prisoners' Self-Help Litigation Manual, by Manville. (Oceana).~~
- 16. ~~Spanish - English Legal Terminology, by Vanson. (Scott-Forsman).~~
- 17. ~~Shepard's Florida Citations. (Shepard's).~~
- 18. ~~Florida Statutes. (State of Florida).~~
- 19. ~~Black's Law Dictionary. (West).~~
- 20. ~~Federal Civil Judicial Procedure and Rules. (West).~~
- 21. ~~Federal Criminal Code and Rules. (West).~~
- 22. ~~Florida Cases. 1941 to Date. (West).~~
- 23. ~~Florida Criminal Law and Rules. (West).~~
- 24. ~~Florida Digest 2nd. (West).~~
- 25. ~~Florida Evidence, by Ehrhardt. (West).~~
- 26. ~~Florida Rules of Court - State & Federal. (West).~~
- 27. ~~Florida Session Laws. (West).~~

- 28. ~~Florida Statutes Annotated. (West).~~
- 29. ~~How to Find the Law, by Cohen. (West).~~
- 30. ~~Law of Corrections and Prisoners' Rights, by Krantz. (West).~~
- 31. ~~Legal Research in a Nutshell, by Cohen. (West).~~
- 32. ~~U.S. Code Annotated, in part: Constitution and Amendments; Title 28; Title 42, Sections 1983-2000d-6. (West).~~
- 33. ~~West's Federal Practice Digest, 4th and 3rd. (West).~~
- 34. ~~West Spanish-English/English-Spanish Law Dictionary. (West).~~
- 35. ~~Florida Appellant Practice, by Padovano. (West).~~
- 36. ~~Florida Criminal Law and Practice, by Crawford. (West).~~
- 37. ~~Florida Post Sentencing, by Daley. (Capital Legal Publishers).~~
- 38. ~~Volume 12 (Chapter 23, Florida Parole Commission); Florida Administrative Code Annotated. (Darby).~~
- 39. ~~Rights of Prisoners. (Clark Boardman).~~
- 40. ~~Florida Bar Journal. (Florida Bar Association).~~

**APPENDIX THREE  
TITLE LIST FOR STARTER COLLECTION  
LAW LIBRARIES**

- 1. ~~Florida Statutes Annotated, including: Uniform Commercial Code, Florida Session Law Service, Florida Rules of Court, State and Federal. (West).~~
- 2. ~~United States Code Annotated, in part: Title 42, Sections 1983-2000d. (West).~~
- 3. ~~Black's Law Dictionary, current edition. (West).~~

**METROPOLITAN PLANNING ORGANIZATION**

**Orlando Urban Area**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Procedure	35I-1
RULE TITLES:	RULE NOS.:
Authority, Creation	35I-1.001
Definition	35I-1.002
Purpose and Functions	35I-1.003
Membership, Appointments, Terms of Office and Vacancies	35I-1.004
Executive Director	35I-1.0051
General Policies	35I-1.007
Procedures for Amending the Long Range Transportation Plan and the Transportation Improvement Program (TIP)	35I-1.009
Procedures for Revising Orlando Urban Area Boundary	35I-1.011
Procedures for MPO Public Involvement Process	35I-1.012
PURPOSE AND EFFECT: The purpose and effect of the proposed rules are to amend Rules 35I-1.001, 35I-1.002, 35I-1.003, 35I-1.004, 35I-1.0051, 35I-1.007, 35I-1.009, 35I-1.010 and 35I-1.012 in order to: change the name of	

Orlando Urban Area Metropolitan Planning Organization to the Orlando Urbanized Area Metropolitan Planning Organization, doing business as, METROPLAN ORLANDO; to make grammatical changes and typographical errors; and to delete unnecessary language and requirements no longer needed under Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: The purpose of this workshop is to address the proposed changes to Rule Chapter No. 35I-1.

SPECIFIC AUTHORITY: 339.175 FS.

LAW IMPLEMENTED: 339.175 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: 5:00 p.m., Wednesday, June 6, 2001

PLACE: Metroplan Orlando, 315 East Robinson Street, Suite 355, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Ms. Muffet Robinson, Director of Communication and Public Outreach, Metroplan Orlando, 315 East Robinson Street, Suite 355, Orlando, Florida 32801

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

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE CHAPTER TITLE: Environmental Resource Permits

RULE CHAPTER NO.: 40E-4

RULE TITLE: Exemptions from Permitting

RULE NO.: 40E-4.051

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to reduce the permitting requirements for restoration of a seawall or riprap and repeal those portions of the rule to make the rule consistent with the existing grant of specific statutory authority. The effect of the proposed rule amendment is to reduce the number of projects that must obtain individual permits, which will (1) reduce processing time and costs for applicants, (2) clarify to applicants when modifications to existing permits qualify for nonsubstantial letter modifications versus a more formal permit application submittal, and (3) repeal rule language that is now obsolete.

SUBJECT AREA TO BE ADDRESSED: The proposed rule amendment would clarify the location of restoration of seawall or riprap permitting exemption.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.406, 373.413, 373.416, 403.813(2) 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: Jan Sluth, Associate Legal Research Assistant, Office of Counsel, South Florida Water Management District, P. O. Box 24680, West Palm Beach, FL 33416-4680, (561)682-6299, 1(800)432-2045, Suncom 229-6299

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40E-4.051 Exemptions from Permitting.

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

(b) The restoration of a seawall or riprap at its previous location or upland of or within 18 inches ~~one foot~~ waterward of its previous location, as measured from the face of the existing seawall slab to the face of restored seawall slab or from the front slope of the existing riprap to the front slope of the restored riprap. No filling can be performed except in the actual restoration of the seawall or riprap. No construction shall be undertaken without the necessary title or leasehold interest, especially where private and public ownership boundaries have changed as a result of natural occurrences such as accretion, reliction and natural erosion. ~~Restoration and repair shall be performed using the criteria set forth in Section 373.414(5), F.S.~~ This exemption shall be limited to functioning seawalls or riprap. This exemption shall not affect the permitting requirements of Chapter 161, F.S.

(c) No change.

(5) through (7) No change.

~~(8) The Use of Rotenone by the Florida Game and Fresh Water Fish Commission. The use of rotenone, by the Florida Game and Fresh Water Fish Commission, in conducting tests related to its responsibility regarding fish management. The chemical selected shall be used at no more than the strength approved by the United States Environmental Protection Agency (EPA) label specifications. In addition, the chemical shall be used only under the direct on-site supervision of a staff member of the Florida Game and Fresh Water Fish Commission.~~

(9) through (11) renumbered (8) through (10) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.406, 373.413, 373.416, 403.813(2) FS. History--New 9-3-81, Amended 1-31-82, 3-9-83, Formerly 16K-4.02, Amended 4-20-94, 10-3-95, 5-28-00.

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE CHAPTER TITLE: Minimum Flows and Levels RULE CHAPTER NO.: 40E-8

PURPOSE AND EFFECT: The purpose and effect of the rule development is to establish minimum flows and levels by December, 2001 for Lake the Loxahatchee River & Estuary and the St. Lucie River & Estuary, in accordance with Chapter 373, Florida Statutes.

SUBJECT AREAS TO BE ADDRESSED: Minimum flows and levels.

SPECIFIC AUTHORITY: 373.042, 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.042, 373.0421 FS.

A RULE DEVELOPMENT WORKSHOP FOR THE LOXAHATCHEE RIVER & ESTUARY WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m. – 12:00 p.m., June 8, 2001

PLACE: Stuart City Hall, Commission Chambers, 121 Flagler Avenue, Stuart, FL 34994

A RULE DEVELOPMENT WORKSHOP FOR THE ST. LUCIE RIVER & ESTUARY WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 1:00 p.m. – 4:00 p.m., June 8, 2001

PLACE: Stuart City Hall, Commission Chambers, 121 Flagler Avenue, Stuart, FL 34994

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: For technical issues contact, Scott Burns (internet: sburns@sfwmd.gov), or Cecile Ross (internet: cross@sfwmd.gov) at South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045. For procedural issues contact: Julie Jennison, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (internet: jjenniso@sfwmd.gov).

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Employee Leasing Companies**

RULE TITLE: Definitions RULE NO.: 61G7-6.001

PURPOSE AND EFFECT: The Board proposes to update this rule to add a definition for “Assumes responsibility for the payment of wages” and to delete subsection (9), the definition to “Tangible accounting net worth.” In addition, subsection (2) the last line is being amended to change ... the right to hire ... to a right to hire....

SUBJECT AREA TO BE ADDRESSED: Definitions.

SPECIFIC AUTHORITY: 468.520, 468.522, 468.525 FS.

LAW IMPLEMENTED: 468.520, 468.522, 468.525(4), 468.529(1) 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: Sherry Landrum, Executive Director, Board of Employee Leasing Companies, 1940 North Monroe Street, Tallahassee, Florida 32399-0767

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G7-6.001 Definitions.

To enable the Board and the Department to administer Part XI of Chapter 468, F.S. , the Board hereby interprets the following terms as used in the definition of employee leasing as follows:

(1) “Actively involved” as used in s. 468.520(7), F.S., to determine whether an entity is an employee leasing company, the Board interprets actively involved to mean the actual exercise of duties on behalf of an employee leasing company. Any natural person who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of any employee leasing company, through direct or indirect control of 50 percent or more of the voting securities of an employee leasing company, is deemed actively involved.

(2) “Arrangement” for insurance purposes as used in s. 468.529, F.S., means the aggregate of any contracts or agreements between an admitted carrier and the employee leasing company related to the issuance of a policy of insurance for a health plan.

(3) “Assumes responsibility for the payment of wages” as used in s. 468.525(4)(b), F.S., means the obligation of the employee leasing company to comply with the terms of employment established with an employee relating to the payment of wages of the employee. At a minimum, such an agreement shall require the employee leasing company to

comply with the Fair Labor Standards Act, 29 C.F.R. Sections 500-899, incorporated herein by reference and effective

~~(4)(2)~~ “Employment responsibilities” as used in s. 468.525(4), F.S., means all those responsibilities generally incumbent on an employer, including payment of wages and taxes and ~~a~~ the right to hire, direct, control, discipline, and terminate employees.

~~(5)(3)~~ “Full Responsibility” as used herein to determine whether an employee leasing company’s contractual arrangements comply with the conditions as set forth in s. 468.525(4), F.S., means complete and total responsibility for the collection of and payment of all payroll taxes which are payable to the Internal Revenue Service and/or to the State of Florida for services performed by leased employees as leased employees.

~~(6)(4)~~ “Health benefits or health plan,” as used in s. 468.529, F.S., means provision of comprehensive major medical health benefits.

~~(7)(5)~~ “Intangible assets” as used herein to enable initial applicants to properly report their financial assets to meet the requirements for licensure, means assets that lack physical substance. The value of intangible assets is generally based on the value of the rights inherent in them or results from allocation of costs incurred to future periods, in which case they have no realizable or recoverable value outside of their ability to benefit future earnings in the normal course of operations. Intangible assets are normally subject to amortization. Examples of intangible assets include goodwill, copyrights, trademarks, patents, organization costs, deferred costs, client enrollment costs, and excess of assets acquired over purchase price.

~~(8)(6)~~ “Long-term ongoing nature” means a situation where a client company and an employee leasing company arranged for leased employees to do more than supplement the client company's workforce in special work situations, such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects. This definition in no way is meant to alter the concept of at-will employment.

~~(9)(7)~~ “Primarily responsible” as used in s. 468.529(1), F.S., means that the admitted carrier is liable for all claims incurred under the plan of insurance during its effective period, regardless of any reimbursement or indemnification agreement between the licensed employee leasing company and the carrier. Any reimbursement or indemnification agreement between the employee leasing company and the admitted insurance carrier shall not limit or diminish the carrier's primary responsibility for its obligations under the health plan for the payment of claims incurred or the provision of benefits under the health plan.

~~(10)(8)~~ “Shared responsibility” as used in s. 468.525(4)(a), F.S., means that the client company exercises such right of direction and control over the leased employee as is necessary to conduct its business and without which the client would be unable to conduct its business, discharge any fiduciary responsibility which it may have, or comply with any applicable licensure, regulatory, or other responsibilities the client company may have.

~~(9)~~ “Tangible accounting net worth” means net worth presented in accordance with generally accepted accounting principles (as defined in Rule 61H1-20.007, F.A.C., incorporated herein by reference and effective 04-24-01), reduced by the aggregate amount of intangible assets.

~~(11)(10)~~ “Temporary” as used in s. 468.520(4), F.S., means a situation in which leased employees are not needed on a long-term, ongoing basis, but rather are only needed to support or supplement the client company's work force in special work situations, such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects, for a period not to exceed one year.

Specific Authority ~~468.520, 468.522, 468.525, 468.529~~ FS. Law Implemented ~~468.520, 468.522, 468.525(4), 468.525(4), 468.529(1)~~ FS. History—New 7-20-92, Formerly 21EE-6.001, Amended 9-14-93, 10-24-94, 7-18-95, 4-26-01, \_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Veterinary Medicine**

RULE TITLE: Examination and Licensure

RULE NO.: 61G18-11.002

PURPOSE AND EFFECT: The Board proposes to amend this rule to update the rule text, and to incorporate the application form for the veterinary medicine examination.

SUBJECT AREA TO BE ADDRESSED: Examination and licensure.

SPECIFIC AUTHORITY: 455.217, 474.206, 474.2065, 474.207 FS.

LAW IMPLEMENTED: 455.217, 474.2065, 474.207 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: 8:00 a.m., June 6, 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: Sherry Landrum, Executive Director, Board of Veterinary Medicine, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G18-11.002 Examination and Licensure.

(1) An applicant for any of the required examinations must apply to the Department on Board-approved form DBPR/001/VM(06/01), and pay the appropriate examination fee. The instructions and form, DBPR/001/VM(06/01), entitled Application For Veterinary Medicine Examination, which are hereby incorporated by reference, and will be effective \_\_\_\_\_, may be obtained from the Board office. NAVLE applicants must apply at least 60 days prior to the examination date. An applicant will have completed section 474.207(2)(b), Florida Statutes, or be enrolled in the last year of the veterinary medical curriculum of a college of veterinary medicine accredited by the American Veterinary Medical Association's Council on Education. This application will remain valid for twelve (12) months.

(2) through (8) No change.

Specific Authority 474.206, 474.2065, 474.207, 455.217 FS. Law Implemented 455.217, 474.2065, 474.207 FS. History--New 11-14-79, Amended 5-11-80, 7-9-80, 5-4-81, 12-10-81, 12-5-82, 5-15-83, 11-5-84, 5-7-85, 11-5-85, Formerly 21X-11.02, Amended 3-1-88, 11-24-88, 4-3-89, 4-13-92, 3-30-93, 7-13-93, Formerly 21X-11.002, Amended 7-4-94, 3-20-95, 3-29-95, 5-1-95, 5-27-99, \_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Veterinary Medicine**

RULE TITLE: Permit Requirements

RULE NO.: 61G18-15.001

PURPOSE AND EFFECT: The Board proposes to amend this rule to update the rule text, and to incorporate the application form for registration of a veterinary premise.

SUBJECT AREA TO BE ADDRESSED: Permit requirements.

SPECIFIC AUTHORITY: 474.206, 474.215 FS.

LAW IMPLEMENTED: 474.215 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: 8:00 a.m., June 6, 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: Sherry Landrum, Executive Director, Board of Veterinary Medicine, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G18-15.001 Permit Requirements.

(1) All establishments where veterinary medicine is practiced shall be required to have a permit issued by the Department of Business and Professional Regulation. An

application for a permit shall be filed with the Department on Board-approved form DBPR/002/VE(06/01) ~~department~~ not less than fourteen (14) days prior to the opening date of the establishment. The instructions and form, entitled Application For Registration of Veterinary Premise, which are hereby incorporated by reference, and will be effective \_\_\_\_\_, may be obtained from the Board office. The establishment shall be inspected for compliance with the minimum standards for sanitary conditions and physical plant as set forth in rule chapter 61G18-15, F.A.C., prior to issuance of the permit. The decision whether reinspection prior to issuance of the permit is necessary because of the establishment's failure to meet required standards on the initial inspection shall be made on an individual basis by a committee appointed by the Chairman and shall be based on the number and severity of the deficiencies documented on the initial inspection report.

(2) through (3) No change.

Specific Authority 474.206, 474.215 FS. Law Implemented 474.215 FS. History--New 11-14-79, Amended 12-10-81, 9-22-82, 12-12-83, 10-17-85, Formerly 21X-15.01, Amended 10-14-86, 5-9-90, Formerly 21X-15.001, Amended 2-6-95, 6-8-95, \_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Veterinary Medicine**

RULE TITLE: Minimum Standards for Limited-Service

RULE NO.: 61G18-15.007

PURPOSE AND EFFECT: The Board proposes to amend this rule to update the rule text, and to incorporate the application form for a limited service veterinary medical practice permit.

SUBJECT AREA TO BE ADDRESSED: Minimum standards for limited-service veterinary medical practices.

SPECIFIC AUTHORITY: 474.206, 474.215 FS.

LAW IMPLEMENTED: 455.215 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: 8:00 a.m., June 6, 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: Sherry Landrum, Executive Director, Board of Veterinary Medicine, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G18-15.007 Minimum Standards for Limited-Service Veterinary Medical Practices.

(1) The term "limited-service veterinary medical practice" shall mean a privately or publicly supported vaccination clinic where a veterinarian performs vaccinations and/or immunizations against disease on multiple animals, and where the veterinarian may also perform preventative procedures for parasitic control, and shall not mean a premise otherwise permitted by the Board. Any limited-service clinic shall be required to file an application with the Department on Board-approved form DBPR/003/VL(06/01). The instructions and form, entitled Limited Service Veterinary Medical Practice Permit, which are hereby incorporated by reference, and will be effective \_\_\_\_\_, may be obtained from the Board office. With regard to operation of limited-service veterinary medical practice, the term "limited time," shall mean no more often than once every two (2) weeks and no more than four (4) hours in any one day for any single location where a vaccination clinic is held.

(2) through (4) No change.

Specific Authority 474.206, 474.215 FS. Law Implemented 474.215 FS. History—New 3-16-95, Amended 7-7-96,\_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLE: Supervisor RULE NO.: 64B3-5.002

PURPOSE AND EFFECT: The purpose of the development is to clarify supervisor qualifications and to add specifics for someone who wishes to supervise in the category of histology.

SUBJECT AREA TO BE ADDRESSED: Supervisor Qualifications and Responsibilities.

SPECIFIC AUTHORITY: 483.805(4), 483.823 FS.

LAW IMPLEMENTED: 381.0034, 483.800, 483.809, 483.815, 483.823 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Joe R. Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-5.002 Supervisor. Qualifications and Responsibilities.

(1) Qualification. Degrees or semester hours of academic credit required in this section shall be obtained at a regionally accredited college or university or by foreign education equated pursuant to Rule 64B3-6.002(6). In order to be licensed as a supervisor, an applicant shall have four hours of Board approved HIV/AIDS continuing education and one of the following:

(a) through (c) No change.

(d) In the categories of cytogenetics, cytology, ~~histology~~, and radioassay, the experience required in paragraphs (a), (b) and (c) must be in the specific category for which licensure is sought.

(e) No change.

(f) For the category of cytology only, a baccalaureate degree which shall include 16 semester hours of academic science, have completed an accredited or Board approved training program in cytology, be licensed as a clinical laboratory technologist and have five (5) years of pertinent clinical laboratory experience in cytology. If ASCP (American Society of Clinical Pathologists) certified prior ~~Prior~~ to 1985, have an associate degree or equivalent, national certification by the American Society of Clinical Pathologists, and 10 years of pertinent clinical laboratory experience within the past 15 years.

(g) In lieu of one year of experience required by Rule 64B3-5.002(1)(2)(a), F.A.C., an applicant may substitute Board certification gained by examination in one or more of the laboratory specialties through the Board of Registry of the American Society of Clinical Pathologists, National Certification Agency of Medical Laboratory Personnel, National Registry of Clinical Chemistry, American Academy of Microbiology, American Medical Technologists, American Board of Bioanalysis, American Board of Clinical Chemistry, American Board of Medical Microbiology, American Board of Medical Genetics, ~~or~~ American Board of Medical Laboratory Immunology, or American Board of Histocompatibility and Immunogenetics.

(h) In the category of histology, one of the following:

1. Board certification gained by examination in histology through the Board of Registry of the American Society of Clinical Pathologists certification at the Histotechnologist (HTL) level.

2. Board certification gained by examination in histology through the Board of Registry of the American Society of Clinical Pathologists certification at the Histotechnician (HT) level, 10 years of pertinent clinical laboratory experience post-certification, and 48 hours continuing education in administration and supervision within five years prior to application for licensure.

3. Florida licensure as a histology technologist, 10 years of pertinent clinical laboratory experience, and 48 hours continuing education in administration and supervision within five years prior to application for licensure.

(2) through (3) No change.

Specific Authority 483.805(4), 483.823 FS. Law Implemented 381.0034, 483.800, 483.809, 483.815, 483.823 FS. History--New 12-6-94, Amended 7-12-95, 12-4-95, Formerly 590-5.002, Amended 5-26-98, 1-11-99, 6-10-99, 3-11-01,\_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: Standard of Care for Office Surgery RULE NO.: 64B8-9.009

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to delete the reference to OSHA guidelines in subsection (2)(a) of the rule.

SUBJECT AREA TO BE ADDRESSED: Deletion of subsection (2)(a) of the rule with regard to OSHA guidelines.

SPECIFIC AUTHORITY: 458.309(1), 458.331(1)(v) FS.

LAW IMPLEMENTED: 458.331(1)(g),(t),(v),(w), 458.351 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-9.009 Standard of Care for Office Surgery.

NOTHING IN THIS RULE RELIEVES THE SURGEON OF THE RESPONSIBILITY FOR MAKING THE MEDICAL DETERMINATION THAT THE OFFICE IS AN APPROPRIATE FORUM FOR THE PARTICULAR PROCEDURE(S) TO BE PERFORMED ON THE PARTICULAR PATIENT.

- (1) No change.
- (2) General Requirements for Office Surgery.
- ~~(a) For all surgical procedures, the level of sterilization shall meet current OSHA requirements.~~
- (b) through (i) renumbered (a) through (h) No change.
- (3) through (6) No change.

Specific Authority 458.309(1), 458.331(1)(v) FS. Law Implemented 458.331(1)(g),(t),(v),(w), 458.351 FS. History--New 2-1-94, Amended 5-17-94, Formerly 61F6-27.009, Amended 9-8-94, 11-15-94, Formerly 59R-9.009, Amended 2-17-00, 12-7-00, 2-27-01,\_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Podiatric Medicine**

RULE TITLES: Penalties Citations RULE NOS.: 64B18-14.002 64B18-14.010

PURPOSE AND EFFECT: The Board proposes to discuss the rules referenced above to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Penalties and citations.

SPECIFIC AUTHORITY: 456.073(3), 456.077, 456.079, 461.005, 461.013 FS.

LAW IMPLEMENTED: 456.072, 456.073(3), 456.077, 456.079, 461.012, 461.013 FS.

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

TIME AND DATE: 9:00 a.m., June 8, 2001

PLACE: The Holiday Inn Select Airport, 5750 T. G. Lee Boulevard, Orlando, Florida 32822

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

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

**DEPARTMENT OF HEALTH**

**Board of Podiatric Medicine**

RULE TITLE: Continuing Education Required for License Renewal RULE NO.: 64B18-17.001

PURPOSE AND EFFECT: The Board proposes to discuss this rule to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Continuing education required for license renewal.

SPECIFIC AUTHORITY: 456.013(6), 456.033, 461.005, 461.007(3) FS.

LAW IMPLEMENTED: 456.013(6), 456.033, 461.007 FS.

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

TIME AND DATE: 9:00 a.m., June 8, 2001

PLACE: The Holiday Inn Select Airport, 5750 T. G. Lee Boulevard, Orlando, Florida 32822

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joe



Baker, Jr., Executive Director, Board of Podiatric Medicine/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257  
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**DEPARTMENT OF HEALTH**

**Board of Speech Language Pathology and Audiology**

RULE CHAPTER TITLE: Assistants  
 RULE CHAPTER NO.: 64B20-4

PURPOSE AND EFFECT: The Board proposes to discuss this chapter to determine if amendments are necessary to the existing rules or if it is necessary to create new rules.

SUBJECT AREA TO BE ADDRESSED: Certification of Assistants. Education Requirements for Assistants. On-the-Job Training, Role and Observation of Speech-Language Pathology and Audiology Assistants. Supervision of Speech-Language Pathology Assistants and Audiology Assistants.

SPECIFIC AUTHORITY: 468.1125(9), 468.1135(4), 468.1215(3) FS.

LAW IMPLEMENTED: 468.1125, 468.1215 FS.

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

TIME AND DATE: 8:30 a.m., May 24, 2001

PLACE: Hyatt Regency, 9300 Airport Boulevard, Orlando, Florida 32827

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Sue Foster, Executive Director, Board of Speech Language Pathology and Audiology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

Any person requiring special accommodations to participate in this workshop because of a disability or physical impairment should contact the Board, (850)245-4460, at least 5 calendar days before the workshop. If you are hearing or speech impaired, please contact the Board using the Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

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

**FLORIDA HOUSING FINANCE CORPORATION**

RULE TITLE: Terms and Conditions of SAIL Loans  
 RULE NO.: 67-48.010

PURPOSE AND EFFECT: The purpose of this Rule is to revise the procedures by which the Corporation shall make and service mortgage loans for new construction or rehabilitation of affordable rental units under the State Apartment Incentive Loan (SAIL) Program authorized by Section 420.5087, Florida Statutes (F.S.).

SUBJECT AREA TO BE ADDRESSED: Rule Chapter 67-48.010, F.A.C.

SPECIFIC AUTHORITY: 420.507 FS.

LAW IMPLEMENTED: 420.5087 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: Kerey Carpenter, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

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

**Section II  
 Proposed Rules**

**DEPARTMENT OF INSURANCE**

RULE TITLE: Party-in-Interest  
 RULE NO.: 4-193.025

PURPOSE, EFFECT AND SUMMARY: Rule 4-193.025 is to be repealed as lacking specific delegated legislative authority. The rule at present requires that the Department be made a party-in-interest to escrow agreements and letters of credit in connection with Continuing Care Retirement Communities under Chapter 651, F.S. The rule is replaced by § 651.033(2), F.S., requiring the department to be notified by the bank before withdrawal of escrow funds.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 651.015(3) FS.

LAW IMPLEMENTED: 651.033, 651.035 FS.

IF REQUESTED IN WRITING 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: 9:30 a.m., May 30, 2001

PLACE: Room 143, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ted Straughn, Bureau of Specialty Insurers, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0331, phone (850)413-2474