

**Section I**  
**Notices of Development of Proposed Rules**  
**and Negotiated Rulemaking**

**DEPARTMENT OF BANKING AND FINANCE**

**Board of Funeral and Cemetery Services**

RULE TITLE: RULE NO.:

List of Approved Forms; Incorporation 3F-5.010

PURPOSE AND EFFECT: The Board proposes this rule to encompass all forms utilized by the Board of Funereal and Cemetery Services.

SUBJECT AREA TO BE ADDRESSED: List of Approved Forms; Incorporation.

SPECIFIC AUTHORITY: 120.53(1)(b), 120.536, 120.54, 120.60(2), 497.003, 497.103, 497.105, 497.127, 497.201, 497.209, 497.213, 497.237, 497.245, 497.257, 497.301, 497.305, 497.309, 497.329, 497.337, 497.357, 497.405, 497.407, 497.413, 497.417, 497.419, 497.421, 497.425, 497.427, 497.429, 497.431, 497.439 FS.

LAW IMPLEMENTED: 497.103, 497.201, 497.209, 497.213, 497.237, 497.301, 497.337, 497.405, 497.407, 497.439, 497.245 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-5.010 List of Approved Forms; Incorporation.

The following forms used by the Board in its dealings with the public are listed as follows and are hereby adopted and incorporated by reference, and can be obtained from the Board office by writing to the Bureau of Funeral and Cemetery Services, 101 E. Gaines St. Tallahassee, Florida 32399-0350, or by telephoning (850)410-9898: 3F-5.010 Rule References:

- (1) DBF-COA-1, entitled "Application for Certificate of Authority", (2/7/95).
- (2) DBF-HistS 7/01, entitled "Historical Sketch."
- (3) DBF-COAB 12/00, entitled "Application for Certificate of Authority Branch Office License", (9/18/01).
- (4) DBF-COAT1, entitled "Application for Transfer of a Certificate of Authority", (5/13/97).
- (5) DBF-RTF-1, entitled "Preneed Funeral Contract Regulatory Trust Fund Remittance", (5/13/97).

(6) DBF-PNS-1, entitled "Registration of a Preneed Sales Agent", (4/25/94).

(7) DBF-CEMN 7/01, entitled "Application to Organize a New Cemetery Company".

(8) DBF-F-32 10/91, entitled "Financial Statement" (10/23/91).

(9) DBF-CEM 1/96 REV 7/01, entitled "Application to Transact Cemetery Business".

(10) DBF-F-35, entitled "Application for Authority to Acquire Control of an Existing Cemetery Company", (10/23/91).

(11) DBF-BYLAW1, entitled "Pamphlet for Cemetery By-Law Approval", (6/1/99).

(12) DBF-EW-1, entitled "Examination Workpapers - Rule 3F-6.0052", (1/1/99).

(13) DBF-F-43, entitled "Performance Bond - Mausoleums or Below-Ground Crypts".

(14) DBF-C-1, entitled "Application to Use a Letter of Credit or Surety Bond" (3/20/91).

(15) DBF-C-2, entitled "Surety Bond" (Rev 9/99).

(16) DBF-C-3, entitled "Letter of Credit/Surety Bond Claim Form", (3/20/91).

(17) DBF-TFR-1, entitled "Preneed Funeral Contract Consumer Protection Trust Fund Remittance", (5/23/94).

(18) DBF-TFD-1, entitled "Preneed Funeral Contract Consumer Protection Trust Fund Proof of Claim and Disbursement Request", (6/01).

Specific Authority 120.53(1)(b), 120.536, 120.54, 120.60(2), 497.003, 497.103, 497.105, 497.127, 497.201, 497.209, 497.213, 497.237, 497.245, 497.257, 497.301, 497.305, 497.309, 497.329, 497.337, 497.357, 497.405, 497.407, 497.413, 497.417, 497.419, 497.421, 497.425, 497.427, 497.429, 497.431, 497.439 FS. Law Implemented 497.103, 497.201, 497.209, 497.213, 497.237, 497.301, 497.337, 497.405, 497.407, 497.439, 497.245 FS. History-New

**DEPARTMENT OF BANKING AND FINANCE**

**Board of Funeral and Cemetery Services**

RULE TITLE: RULE NO.:

Preneed Contracts; Miscellaneous Provisions 3F-8.004

PURPOSE AND EFFECT: The Board proposes to amend this rule to add section 497.429, F.S., to subsection (3) and to correct the typographical error in subsection (4) calculation should be miscalculation.

SUBJECT AREA TO BE ADDRESSED: Preneed Contracts; Miscellaneous Provisions.

SPECIFIC AUTHORITY: 497.103 FS.

LAW IMPLEMENTED: 497.415, 497.417, 497.419, 497.429 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-8.004 Preneed Contracts; Miscellaneous Provisions.

(1) through (2) No change.

(3) Misapplied or unidentified preneed funds shall be transferred to the correct preneed account immediately upon discovery, and shall be considered deposited timely if the funds were deposited in the trust in accordance with Section 497.417 and 497.429, F.S.

(4) Preneed accounts which are under or over trusted due to computer or manual miscalculations must be corrected immediately upon discovery, on a contract per contract basis.

(5) No change.

Specific Authority 497.103 FS. Law Implemented 497.415, 497.417, 497.419 FS. History—New 3-20-95, Amended 6-15-95, 8-17-95, 4-10-97.

**DEPARTMENT OF BANKING AND FINANCE**

**Board of Funeral and Cemetery Services**

RULE TITLE: Description of Merchandise on Preneed Contracts RULE NO.: 3F-8.006

PURPOSE AND EFFECT: The Board proposes to amend this rule to update the language for clarity.

SUBJECT AREA TO BE ADDRESSED: Description of Merchandise on Preneed Contracts.

SPECIFIC AUTHORITY: 497.103(1) FS.

LAW IMPLEMENTED: 497.333(6)(c) 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-8.006 Description of Merchandise on Preneed Contracts.

(1) through (2)(b)4. No change.

5. ~~Gasketed or non-gasketed gaskets or no-gaskets~~

(c) though (2)1. No change.

2. Adhesive ~~lid lining~~/non adhesive ~~lid lining~~

(3) through (6) No change.

Specific Authority 497.103(1) FS. Law Implemented 497.333(6)(c) FS. History—New 4-10-97, Amended 7-5-01.

**DEPARTMENT OF REVENUE**

RULE TITLES:	RULE NOS.:
Scope of Rules	12-17.001
Definitions	12-17.002
Requirements for Considering Entering into Stipulated Time Payment Agreements	12-17.003
Delegation of Authority	12-17.004
Factors Considered by the Department	12-17.005
Procedures	12-17.006
Form and Execution of Stipulated Time Payment Agreements	12-17.007
Terms of Stipulated Time Payment Agreements	12-17.008
Termination of Agreements	12-17.009
Public Use Forms	12-17.010

PURPOSE AND EFFECT: A) The proposed amendment to Rule 12-17.001, F.A.C., clarifies that the procedures in the rule chapter implement the provision in the Taxpayer Bill of Rights that guarantees taxpayers the right to procedures that retire an unpaid tax liability through a time payment agreement. B) The proposed changes to Rule 12-17.002, F.A.C., define the terms “closing agreement” and “collection action,” which are used in the rule chapter. C) The proposed revisions to Rule 12-17.003 explain that the Department of Revenue (DOR) will not enter into a stipulated time payment (stip) agreement: if the taxpayer owes any outstanding bad checks to DOR; or, if the amount to be covered by the stip agreement is less than the cost of administering the agreement. D) The proposed amendments to Rule 12-17.004, F.A.C., adjust the references to the positions within DOR that are authorized to negotiate and sign a stip agreement on behalf of the Department to reflect organizational changes that have recently occurred. E) The proposed changes to Rule 12-17.005, F.A.C., modify the factors DOR will use to determine if a taxpayer has an existing economic hardship that renders him or her unable to satisfy an unpaid liability with a lump-sum payment, including: whether the taxpayer has implemented business practices to properly collect and remit tax in the future; any recommendation for a stip agreement suggested by a DOR auditor, if the recommendation is based on the auditor’s review of the taxpayer’s records; or, any written information presented to DOR by the taxpayer. F) The proposed revisions to Rule 12-17.006, F.A.C., enumerate the items of information a taxpayer must provide to DOR (unless DOR already has such information), including: 1. social data; 2. taxpayer identification or account numbers; 3. specific data on outstanding tax returns (amount due, tax type, and tax periods involved); 4. an agreement that the taxpayer owes the outstanding liability to be covered by the stip agreement; 5. an explanation of why the taxpayer cannot pay the liability owed in a lump-sum payment; and, 6. a proposal for the retirement of the liability owed. In addition, these revisions explain to the

taxpayer where to file such information and how the Office of Technical Assistance and Dispute Resolution will handle recommended stip agreements arising from a taxpayer protest. Also, these proposed changes authorize DOR to take one or both of the following actions after receiving the taxpayer's required information: issuance of a warrant for the amount of the total liability, based on specific criteria; or, investigation of the taxpayer's financial condition, if the information submitted requires confirmation by DOR.

These proposed amendments notify the taxpayer that the execution of a stip agreement does not prevent DOR from conducting an audit for the taxes and taxable periods covered by the agreement. G) The proposed changes to Rule 12-17.007, F.A.C., explain that a single form (the DR-68) will be used to document a stip agreement, specify the taxpayer social information that must be included on the form, and require that DOR provide a detailed amortization schedule and payment coupons with every stip agreement that is executed. H) The proposed amendments to Rule 12-17.008, F.A.C., state that every stip agreement must contain the following information: 1. the number of payments to be made; 2. the payment frequency (weekly, monthly); 3. whether a down payment is required, and the down payment amount; 4. whether each payment will be an equal amount, or equal payments with a final, balloon payment; 5. how DOR will distribute each payment to retire tax, penalty, and interest; and, 6. how DOR will handle any unpaid balance at the end of the current stip agreement (will the taxpayer be offered another stip agreement, or will payment in full be due?). Also, these proposed revisions require that every stip agreement notify the taxpayer about the following provisions: interest on the unpaid balance continues to accrue during the stip agreement; DOR will file a lien for the stip agreement amount, unless the employee negotiating the agreement documents the reason(s) for not filing a lien. DOR will void the agreement if the taxpayer fails to comply with the stip agreement terms or fails to submit any other taxes and returns due under Florida's revenue laws; the statutory provisions concerning jeopardy assessments continue to apply; the taxpayer must present cash, a cashier's check, or a money order to DOR within seven days if a stip agreement payment is made with a bad check; and, the protest rights granted to the taxpayer if the stip agreement is voided by DOR. I) The proposed changes to Rule 12-17.009, F.A.C., state that DOR will void the stip agreement if the taxpayer fails to make full payment pursuant to the agreement or fails to remit taxes due after execution of the agreement. These proposed revisions also establish procedures a taxpayer may follow to protest DOR's intent to terminate a stip agreement and explain the methods DOR will use to collect the balance of the unpaid liability; and, J) Proposed new Rule 12-17.010, F.A.C., creates form DR-68 (Stipulated Payment Agreement), which combines previous forms DR-68, DR-68A, and DR-68C into one form. This rule also explains how taxpayers may obtain a copy of the form.

SUBJECT AREA TO BE ADDRESSED: The subject area addressed by these rule amendments is the procedures that govern the establishment of a stipulated time payment agreement, which allows a taxpayer to retire an unpaid liability by making installment payments.

SPECIFIC AUTHORITY: 20.05(1)(e), 213.06(1), 213.21(5) FS.

LAW IMPLEMENTED: 213.015(10), 213.21(4) FS.

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

TIME AND DATE: 11:00 a.m., November 21, 2002

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in this workshop is asked to advise the Department at least 48 hours before the workshop by contacting Nancy Purvis, (850)488-0712. If you are hearing or speech impaired, please contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Larry Green, Tax Law Specialist, Rules and Policy Administrative Process, Office of the General Counsel, Department of Revenue, P. O. Box 6668, Tallahassee, Florida 32314-6668, (850)922-4830, e-mail address greenl@dor.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

#### 12-17.001 Scope of Rules.

The rules set forth in this chapter shall be used by the Department in exercising the authority granted by subsection 213.21(4), Florida Statutes, s. 213.21(4), F.S., to enter into agreements for scheduling payments of taxes, interest, and penalties. These rules also implement the Taxpayer Bill of Rights statutory provision that guarantees every Florida taxpayer the right to procedures for retiring unpaid tax liabilities through stipulated time payment agreements that are based on the taxpayer's financial position and the best interests of the state.

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.015(10), 213.21(4) FS. History—New 10-4-89, Amended.

#### 12-17.002 Definitions.

(1) "Department" means the Florida Department of Revenue.

(2) "Taxpayer" means any person, as defined in section 1.01, Florida Statutes, required to remit tax, interest, or penalty to the Department under any of the tax laws enumerated in subsection 72.011(1), Florida Statutes s. 72.011(1), F.S.

(3) "Stipulated time payment agreement" means a written agreement entered into by the Department and a taxpayer which schedules payments of a liability for tax, interest, or penalty over a specified period of time.

(4) A "Closing agreement" means a written agreement entered into by the Department and a taxpayer pursuant to Rule 12-13.009, F.A.C.

(5) "Collection action" means the issuance of a delinquent notice or billing, a tax warrant, or any other attempt to obtain payment of an unpaid amount. The term "collection action" does not include an attempt by an auditor to collect an assessment arising from the performance of an audit by such auditor.

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.21(4) FS. History--New 10-4-89, Amended \_\_\_\_\_.

12-17.003 Requirements for Considering Entering into Stipulated Time Payment Agreements.

(1) A taxpayer requesting a stipulated time payment agreement must first:

(a) Acknowledge the taxpayer's admit liability for the total amount of tax, interest, ~~or and~~ penalty finally determined to be due by the Department, and;

(b)(2) Demonstrate ~~The taxpayer must demonstrate~~ to the satisfaction of the Department that he or she ~~the taxpayer~~ is currently unable to make a single lump sum payment to fully satisfy a liability for tax, interest, or penalty, or that a lump sum payment of the amounts due would impose an undue economic or financial hardship on the taxpayer, and;

(c) Pay all outstanding debts of tax, penalties, and interest not covered by the requested stipulated time payment agreement that are owed to the Department.

(2) Pursuant to Section 213.24, Florida Statutes, the Department will not agree to a stipulated time payment agreement if the amount due from the taxpayer is less than the costs the Department will incur to administer the taxpayer's stipulated time payment agreement.

(3) ~~The taxpayer shall also waive the right to institute administrative or judicial proceedings under s. 72.011, F.S., with respect to the liability.~~

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.21(4) FS. History--New 10-4-89, Amended 10-5-92, \_\_\_\_\_.

12-17.004 Delegation of Authority.

(1) In addition to the statutory authority granted by subsection 213.21(4), Florida Statutes, ~~s. 213.21(4), F.S.~~, the Executive Director of the Department has authority to enter into agreements with taxpayers for scheduling payments of taxes, interest, and penalties under authority granted by the Governor and Cabinet as the head of the Department. Cross Reference: Rule 12-3.007, F.A.C.

(2) The Executive Director of the Department delegates authority to enter into stipulated time payment agreements under subsection 213.21(4), Florida Statutes, s. 213.21(4), F.S.;

to the Deputy Assistant Executive Director, the General Counsel, and the Deputy General Counsel, the Program Director and the Deputy Program Director of the General Tax Administration Program of the Department, and:

(a) In cases where a tax matter is in litigation or in protest pursuant to Rule Chapter 12-6, F.A.C., to:

1. The Assistant General Counsels ~~General Counsel~~ of the Department;

2. The Director and Revenue Program Administrators in Technical Assistance and Dispute Resolution ~~Deputy General Counsel of the Department~~;

3. The Process Manager, Regional Managers, Service Center Managers, and Revenue Program Administrators in the Compliance Enforcement, Compliance Support, and Taxpayer Services Processes, and any additional positions designated in writing by the Executive Director or his or her designee, Director and Assistant Director of the Division of Taxpayer Assistance;

4. The Chief of the Bureau of Hearings and Appeals; and

5. The Tax Audit Specialist Supervisors III in the Bureau of Hearings and Appeals;

(b) In cases involving amounts assessed pursuant to an audit of the taxpayer, to:

1. The Process Manager, Regional Managers, Service Center Managers, Revenue Program Administrators, Tax Audit Supervisors, Senior Revenue Administrators, Revenue Administrators, and Revenue Specialist Supervisors of the Compliance Enforcement Process, and any additional positions designated in writing by the Executive Director or his or her designee; Director and the Assistant Director of the Division of Audits;

2. The Process Manager, Revenue Program Administrators, Tax Specialist Administrators, Tax Law Specialists, Senior Management Analysts II, and Senior Tax Specialists in the Compliance Support Process, and any additional positions designated in writing by the Executive Director or his or her designee, Chief and the Assistant Chief of the Bureau of Central Audit and Selection;

3. The Chiefs and the Assistant Chiefs of the Bureaus of In State Audit and Multi State Audit;

4. Chief and the Assistant Chief of the Bureau of Audit Standards;

5. The Administrator of the Receivables Section, Bureau of Collections;

6. The Administrator of the Audit Assistance Section;

7. The Tax Audit Specialist Supervisors in the Audit Assistance Section;

8. The Tax Audit Specialists in the Audit Assistance Section; and

9. The Senior Audit Supervisors in the Division of Audits;

(c) In cases involving a billing or assessment issued by the General Tax Administration Program Division of Collection and Enforcement, to:

1. The Process Manager, Regional Managers, Service Center Managers, Revenue Program Administrators, Tax Audit Supervisors, Senior Revenue Administrators, Revenue Administrators, and Revenue Specialist Supervisors in the Compliance Enforcement Process, and any additional positions designated in writing by the Executive Director or his or her designee Director and the Assistant Director of the Division of Collection and Enforcement;

2. The Process Manager, Revenue Program Administrators, Revenue Administrators, Revenue Specialist Supervisors, Revenue Specialist IIIs, and Tax Specialist Administrators in the Taxpayer Services Process, or any additional positions designated in writing by the Executive Director or his or her designee Chief and the Deputy Bureau Chiefs of the Bureau of Collections;

3. The Chief and the Deputy Bureau Chiefs of the Bureau of Enforcement;

4. The Chief and the Assistant Chief of the Bureau of Field Services;

5. All District Administrators;

6. All Area Administrators;

7. All Deputy Administrators;

8. All Collection Consultants and Collection Supervisors of the Bureau of Field Services;

9. The Section Administrators of the Bureau of Collections;

10. The Section Administrator of the Special Programs Section and the Section Administrator of the Investigations Section; and

11. All Special Programs Supervisors of the Bureau of Collection and Enforcement.

(d) The Executive Director has ~~shall have~~ discretionary authority to delegate authority to sign stipulated time payment agreements to specific employees or positions which are not enumerated in these rules. However, a delegation of authority to an employee or position beyond those described herein shall be in writing, signed by the Executive Director, and shall be for a specified time period. Such delegations may be renewed in writing. Copies of any such written delegations of authority shall be maintained on file with the agency clerk in the Office of General Counsel.

Specific Authority ~~20.05(1)(e)(5), 213.06(1), 213.21(5) FS. Law Implemented 20.52(1)(b), 213.21(4) FS. History--New 10-4-89, Amended 10-5-92, 8-17-94, \_\_\_\_\_.~~

12-17.005 Factors ~~Which May Be~~ Considered by the Department.

The ~~factors which~~ Department will apply one or more of the following factors when ~~consider in~~ determining whether to enter into a stipulated time payment agreement and in

determining the existence of undue economic or financial hardship or the ~~current~~ inability of a taxpayer to satisfy a liability for tax, interest, or penalty in a lump sum ~~are~~:

~~(1) Taxpayer's current and anticipated financial position;~~

~~(2) Insolvency of taxpayer;~~

~~(1)(3) The taxpayer's Taxpayer's~~ previous payment record with the Department;

~~(2)(4) The taxpayer's ability to meet a payment schedule obligation based on projected cash flow;~~

~~(3)(5) The payment amount and the length Length~~ of time required to retire the liability;

~~(4)(6) The future Future~~ outlook of the taxpayer's business and the industry ~~involved;~~

~~(5)(7) The financial impact Effect~~ on the taxpayer ~~if required to make of making a current~~ lump sum payment;

~~(6)(8) Whether the taxpayer collected, but did not remit the tax addressed by the agreement; and~~

~~(7) Whether the taxpayer institutes business practices to ensure the proper collection and remittance of tax in the future;~~

~~(8)(9) Whether the state would eventually receive more of the taxes due by entering into a stipulated time payment agreement than by requiring a current~~ lump sum payment;

~~(9) Any recommendation submitted by a department auditor based on an examination of the taxpayer's records; and~~

~~(10) Any additional written information the taxpayer presents for the Department's consideration.~~

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.21(4) FS. History--New 10-4-89, Amended \_\_\_\_\_.

12-17.006 Procedures.

(1) In instances where the Department does not already have the following information and items, a taxpayer requesting applying for relief under this chapter shall provide such information and items to the Department file a written request containing the following:

(a) Taxpayer's name, address, federal employer employer's identification number or social security number, audit identification number, and all any account identification numbers number issued by the Department;

(b) Any outstanding tax returns identifying any tax due, by tax type, and the taxable period(s) that apply (any penalty and interest that is due will be computed at the time the agreement is completed) The amount of tax, penalty, and interest due, the type of tax, and the taxable period covered by the request;

(c) An acknowledgment of the An admission of liability for the total amount of tax, fees, collection costs, or other amounts assessed, and interest, and penalty determined to be due by either the Department Division of Audits, the Division of Taxpayer Assistance, or the Division of Collection and Enforcement, and an agreement to waive the right a waiver of the taxpayer's rights to institute administrative or judicial proceedings under Section 72.011, Florida Statutes, s. 72.011, F.S., with respect to the acknowledged liability;

(d) ~~An oral or written explanation regarding the~~ The factual basis for the undue hardship or current inability to satisfy the liability in a lump sum and documentary evidence to support the taxpayer's basis for relief; ~~and.~~

(e) ~~A proposal proposed payment schedule~~ for satisfaction of the liability for tax, interest, and penalty wherein the taxpayer indicates its projected cash flow for the succeeding 12 months; ~~and~~

(f) ~~Financial statements, in a form acceptable to the Department, demonstrating the taxpayer's inability to satisfy the liability in a lump sum.~~

(2) Where the tax, interest, or penalty is assessed as a result of an audit of the taxpayer, the taxpayer shall file the written request with the Process Manager, Compliance Support Process, Chief of the Bureau of Audit Standards, Department of Revenue, P. O. Box 5139, Tallahassee, Florida 32314-5139, prior to the date an assessment becomes final. Upon execution of the stipulated agreement, it will be referred to the Taxpayer Services Process Bureau of Collections for administration.

(3) In cases involving notices, billings, jeopardy billing assessments, audit assessments, and tax warrants referred by the Division of Audits for collection, and tax warrants issued by the Department Division of Collection and Enforcement, the taxpayer shall file the information and items required by subsection (1) written request with the office which issued the notice, billing, jeopardy assessment, or audit assessment, or tax warrant and direct it to the attention of the appropriate position within that office.

(a) ~~Written requests regarding first and second notices of billing should be directed to the Deputy Chief, Bureau of Collections, Department of Revenue, 5050 West Tennessee Street, Capital Center Complex, Tallahassee, Florida 32399-0100;~~

(b) ~~Written requests regarding tax billings which have been referred to a taxpayer service center for collection should be directed to the Area Administrator of the local Collection and Enforcement office for the taxpayer's location; or~~

(c) ~~Written requests regarding billings or assessments issued by the Special Programs Section should be directed to the Deputy Chief of the Special Programs Section, P. O. Box 6417, Tallahassee, Florida 32314.~~

(4) In those instances where a protest is referred to the Office of Technical Assistance and Dispute Resolution (the Office) the Division of Taxpayer Assistance by the Compliance Enforcement Process, the Compliance Support Process, or the Taxpayer Services Process, Division of Audits or the Division of Collection and Enforcement, all final assessments will be referred back to the originating process division. If a taxpayer has requested a payment agreement, and the Office agrees that the taxpayer qualifies pursuant to this rule chapter, the Office the Bureau of Hearings and Appeals will include, as part of the closing agreement, the terms of any stipulated payment plan that the Office has determined is

appropriate provide a recommendation to the respective division as to whether the Department should exercise its authority to enter into a payment agreement pursuant to subsection 213.21(4), Florida Statutes, s. 213.21(4), F.S.

(5) On receipt of the taxpayer's request for a stipulated time payment agreement, the Department will take any of the following may request additional actions information required by the taxpayer's specific circumstances:-

(a) ~~The~~ When it is deemed necessary, the Department will issue a warrant for the total liability for any one or more of the following reasons:-

1. To protect the state's interest in the taxpayer's assets;
2. To establish priority in real or tangible property rights;
3. To establish priority in the event of possible bankruptcy;
4. To prevent the disposal of assets without the state's consent;
5. The taxpayer has failed to respond to previous collection actions by the Department; or,
6. The taxpayer has a previous history of delinquent filings or payments.

(b) The issuance of levy instructions to the Sheriff to execute Execution upon the warrant will be withheld as long as:

1. This a stipulated time payment agreement is in force and the taxpayer has not defaulted under the terms of the agreement; and,-
2. The taxpayer is in complete compliance with all other requirements of the revenue laws.

(c)~~(b)~~ The Department will may also investigate the financial position of the taxpayer, when the Department determines that the information submitted pursuant to subsection (1) requires confirmation.

(6) After consideration of the taxpayer's request for relief, the Department shall:

- (a) Accept the request by executing a stipulated time payment agreement; may make a counter-proposal; or,
- (b) Reject may reject the request in whole or in part; or,
- (c) Make a counter-proposal or may accept the request by the execution of a stipulated time payment agreement.

(7) Excluding stipulated time payment agreements arising from audit assessments, any stipulated time payment agreement entered into by the Department does not prohibit the Department from conducting a future audit for the periods and taxes covered by the payment agreement.

(8)~~(7)~~ A request for a stipulated time payment agreement which is not accepted on behalf of the Department shall not be deemed an admission by the Department or the taxpayer and will not prejudice either party's position in administrative or judicial proceedings.

Specific Authority ~~20.05(1)(c)(5), 213.06(1), 213.21(5) FS. Law Implemented 420.53(4)(b), 213.21(4) FS. History-New 10-4-89, Amended 10-5-92,~~

12-17.007 Form and Execution of Stipulated Time Payment Agreements.

(1) ~~Every~~ A stipulated time payment agreement executed under this chapter shall specify the name, account identification number, and audit identification number, if applicable, of the taxpayer; the taxpayer's current business address and the current address of the physical location of the business; the type of tax(es) and the taxable period(s) covered; ~~and the date of the proposed assessment or warrant, and the terms of the agreement.~~

(2) ~~The~~ Except when subsection (3) applies, the Department prescribes ~~form~~ Form DR-68 (Stipulated Time Payment Agreement), Stipulation Agreement, dated October, 1989, as the form to be used by the ~~Department~~ General Tax Administration Program for the purposes of this chapter, and hereby adopts this form by reference. Copies of this form may be obtained as discussed in subsection (9) of this rule.

(3) ~~The~~ Department prescribes Form DR-68B, Stipulated Agreement, dated August 1994, as the form to be used by the General Tax Administration Program for the purposes of this chapter and hereby adopts this form by reference. Copies of this form may be obtained as discussed in subsection (9) of this rule.

(4) ~~The~~ Department prescribes Form DR-68C, Stipulation Agreement, dated October, 1989, as the form to be used by the General Tax Administration Program for the purposes of this chapter and hereby adopts this form by reference. Copies of this form may be obtained as discussed in subsection (9) of this rule.

(3)(5) ~~Every~~ A stipulated time payment agreement shall be signed on behalf of the Department by a person with delegated authority to enter into the agreement under Rule 12-17.004, F.A.C.

(4)(6) ~~Every~~ A stipulated time payment agreement shall be signed by the taxpayer or the taxpayer's representative with authority to enter into the agreement on behalf of the taxpayer.

(a) In the case of a corporate taxpayer, an officer of the corporation shall sign the agreement ~~and the corporate seal, if any, shall be affixed and attested by the secretary of the corporation~~ unless paragraph (c) of this subsection is applicable.

(b) An officer's or fiduciary's signature on a stipulated time payment agreement made by or for a taxpayer shall be prima facie evidence that such individual was authorized to sign the agreement on behalf of the taxpayer.

(c) A stipulated time payment agreement may be signed by a representative of the taxpayer who files with the Department a power of attorney form (DR-835), which grants the representative authority to execute the agreement on behalf of the taxpayer.

(5)(7) A stipulated time payment agreement will become effective when it has been executed by both parties. Upon ~~presentation~~ ~~execution~~ of the agreement, the Department will ~~provide~~ ~~furnish~~ the taxpayer with:

(a) ~~A~~ a detailed amortization schedule of payments required for satisfaction of the tax, interest, and penalty referenced in the stipulated time payment agreement, which will be placed on the stipulated time payment agreement above the signature lines; and

(b) Payment coupons.

(8) ~~The~~ Department prescribes Form DR-68S, Amortization Schedule, dated October, 1989, as the form to be used to furnish the schedule of payments required under a stipulated time payment agreement and hereby adopts this form by reference. Copies of this form may be obtained as discussed in subsection (9) of this rule.

(6)(9) ~~Form DR-68 is incorporated by reference in Rule 12-17.010, and can be obtained as discussed in that rule. The forms discussed in this rule chapter may be obtained by writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or faxing the Forms Distribution Center at (850)922-2208; or using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or visiting any local Department of Revenue Service Center to personally obtain a copy; or calling the Forms Request Line during regular office hours at 1(800)352-3671 (in Florida only) or (850)488-6800; or downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://sun6.dms.state.fl.us/dor/>). Persons with a hearing or speech impairment may call the Department's TDD at 1(800)367-8331.~~

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.21(4) FS. History--New 10-4-89, Amended 10-5-92, 8-17-94, \_\_\_\_\_.

12-17.008 Terms of Stipulated Time Payment Agreements.

(1) ~~Every stipulated~~ Stipulated time payment agreement ~~agreements will include a discussion and determination of each of the following issues: ordinarily provide for payments to be made over a period of 12 months or less, with all payments being equal amounts except for the final payment of the remaining liability. The period established will be determined by the ability of the taxpayer to make payments.~~

(a) The number of payments to be made during the term of the agreement (e.g., 6, 12, or 24 payments);

(b) The frequency of each payment to be made during the term of the agreement (e.g., weekly, bi-weekly, or monthly);

(c) Whether a down payment is required as part of the terms of the agreement, and the amount of such down payment;

(d) Whether each payment will be an equal amount (e.g., an equal amount due each payment period, or equal payments with the final payment being a balloon payment):

(e) How the Department will allocate each payment to reduce the outstanding debt of tax, penalty, or interest as provided by section 213.75, Florida Statutes:

(f) Whether any portion of the liability will remain unpaid at the end of the current payment agreement, and if so, which of the following actions will be taken by the Department:

1. The terms and conditions of another payment agreement will be negotiated upon full compliance with the current agreement; or,

2. The Department will request the taxpayer to pay the unpaid balance in full based on:

a. The taxpayer's failure to fully comply with the current agreement; or,

b. An improvement in the taxpayer's financial condition.

(2) The determinations made in paragraphs (1)(a) through (f) of this rule by the Department will be based on the factors contained in Rules 12A-17.005 and subsection 12-17.006(5), F.A.C. A down payment on the total tax, penalty, and interest is normally required of the taxpayer upon execution of the stipulated time payment agreement.

(a) The Department shall determine the amount of down payment required based on the facts and circumstances of each case as they relate to the factors for consideration in Rule 12-17.005, F.A.C.

(b) In cases involving amounts assessed pursuant to an audit by the Division of Audits, the taxpayer will normally be required to make a down payment of 25 percent of the total amount of tax, interest, and penalty due for the period covered by the agreement. However, the amount of the down payment required may be reduced or increased based on the factors considered in Rule 12-17.005, F.A.C., and the facts and circumstances of the particular case.

(3) In cases involving a billing or assessment issued by the Division of Collection and Enforcement, a warrant is normally filed for the total liability covered by the agreement.

(3)(4) Every agreement in all agreements made pursuant to this chapter, shall include a notification to the taxpayer that:

(a) Interest interest shall continue to accrue on the unpaid balance of the tax at the rate provided by law; and,-

(b) The Department will file a lien for the full amount of the unpaid liability, unless the Department representative who negotiates the agreement documents in writing the reason(s) for not filing a lien. Also, the establishment of a stipulated time payment agreement does not invalidate or withdraw a warrant issued with respect to the liability covered by the agreement;

(c) The current stipulated time payment agreement will be void if the taxpayer fails to:

1. Comply with all conditions of the agreement; or,

2. Submit all returns and pay all taxes in full pursuant to the revenue laws of Florida enumerated in Section 213.05, Florida Statutes, that become due during the term of the agreement.

(d) The provisions of the statutes relating to jeopardy assessments will continue to apply to a taxpayer who has entered into a stipulated time payment agreement.

(e) A taxpayer must submit cash, a cashier's check, or a money order to the Department within seven calendar days of being informed that he or she has paid a stipulated time payment with a check that is not valid due to insufficient funds.

(f) Explains the rights granted to each taxpayer by subsection (2) of Rule 12-17.009, F.A.C., to protest the termination of a stipulated time payment agreement.

(5) Upon a showing of good cause, the Department is authorized to renegotiate stipulated agreements for an extended period. In determining whether good cause exists, the Department will consider the taxpayer's payment record during the initial term of the agreement, the current financial ability of the taxpayer to continue to satisfy the liability, and whether the best interest of the state will be served by renegotiating the said agreement.

(6) The execution of a stipulated time payment agreement does not invalidate a warrant issued with respect to the liability covered by the agreement.

Specific Authority 20.05(1)(c)(5), 213.06(1), 213.21(5) FS. Law Implemented 120.53(1)(b), 213.21(4) FS. History--New 10-4-89, Amended 10-5-92, 6-15-93, \_\_\_\_\_.

12-17.009 Termination of Agreements.

(1) The Department will may void a stipulated time payment agreement under one or both of the following conditions:

(a) The taxpayer fails to make full payment when due under the terms of the agreement, or

(b) The taxpayer fails to remit in full amounts taxes which become due and payable after the execution of the agreement.

(2) Before voiding a stipulated time payment agreement, the Department will notify the taxpayer in writing of the taxpayer's failure to meet the terms of the agreement and afford the taxpayer the opportunity to present evidence of compliance with the current agreement, unless jeopardy to the revenue has previously been assessed timely remittance of the payment(s) in question.

(a) If the taxpayer fails to respond to this notification within 15 consecutive calendar days of the date on the notification from the Department, the agreement is voided.

(b) If the agreement is voided by the Department, the taxpayer shall have an additional 15 consecutive calendar days after the date the Department notifies the taxpayer that the agreement has been voided to request that the Department reconsider voiding the agreement and to submit written proof



that there are “reasonable cause” grounds for not voiding the agreement, pursuant to the “reasonable cause” provisions in section 213.21, Florida Statutes, and Rule 12-13.007, F.A.C.

(c) If the taxpayer does not establish “reasonable cause” within the 15 consecutive calendar day period discussed in paragraph (b) of this subsection, the Department’s decision to void the agreement is final.

(3) Should the Department void the agreement, any unpaid balance due under the stipulated time payment agreement is ~~will~~ immediately ~~become~~ due and payable.

(4) If ~~paragraph (a) or (b) of~~ subsection (1) ~~is are~~ applicable or if an agreement has otherwise expired, ~~after notice and demand for payment,~~ the Department will implement one or more of the following steps:

(a) Issue levy instructions to the sheriff to may issue a warrant for the remaining liability or and may execute that warrant or a warrant previously issued with respect to the liability.

(b) Refer the issue to the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation for beverage license action;

(c) Implement the garnishment provisions of Section 213.67, Florida Statutes, and Part II of Rule Chapter 12-21, F.A.C.;

(d) Implement the collection referral provisions of Section 213.27, Florida Statutes;

(e) Cancel the sales tax registration certificate of a taxpayer pursuant to Section 212.18(3)(b), Florida Statutes.

~~(5) The provisions of the Florida Statutes relating to jeopardy assessments will continue to apply to a taxpayer who has entered into a stipulated time payment agreement.~~

Specific Authority 213.06(1), 213.21(5) FS. Law Implemented 213.21(4) FS. History—New 10-4-89, Amended.

12-17.010 Public Use Forms.

The following public use forms are used by the Department in the processing and scheduling of stipulated time payment agreements and are hereby incorporated by reference. These forms are available by one or more of the following methods: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168 Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department’s automated Fax On Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department’s Internet site stated in the parentheses (<http://myflorida.com/dor>). Persons with hearing or speech impairments may call the Department’s TDD at (800)367-8331.

<u>Form Number</u>	<u>Title</u>	<u>Effective Date</u>
<u>(1) DR-68</u>	<u>Stipulated Time Payment Agreement (n. 02/03)</u>	<u>xxxx</u>

Specific Authority 213.06(1) FS. Law Implemented 213.21(4) FS. History—New.

**PUBLIC SERVICE COMMISSION**

DOCKET NO.: UNDOCKETED

RULE TITLES: RULE NOS.:

General Information and Instructions

Required of Water and Wastewater

Utilities in an Application for a

Limited Proceeding 25-30.185

Notice of and Public Information

for Application for Limited

Proceeding Rate Increase 25-30.186

PURPOSE AND EFFECT: To define the filing requirements and to specify the noticing requirements for a limited proceeding application.

SUBJECT AREA TO BE ADDRESSED: Water and Wastewater Limited Proceedings.

SPECIFIC AUTHORITY: 350.127(2), 367.0822, 367.121(1)(a) FS.

LAW IMPLEMENTED: 367.0822, 367.121 FS.

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

TIME AND DATE: 9:30 a.m., November 20, 2002

PLACE: Betty Easley Conference Center, Room 152, 4075 Esplanade Way, Tallahassee, Florida; Call-In Number (850)921-6455

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Tricia Merchant, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, (850)413-6900

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-30.185 General Information and Instructions Required of Water and Wastewater Utilities in an Application for a Limited Proceeding.

(1) Each applicant for a limited proceeding shall provide the following general information to the Commission:

(a) The name of the applicant as it appears on the applicant’s certificate and the address of the applicant’s principal place of business.

(b) The type of business organization under which the applicant's operations are conducted; if the applicant is a corporation, the date of incorporation; the names and addresses of all persons who own 5 percent or more of the applicant's stock; or the names and addresses of the owners of the business.

(c) The number(s) of the Commission order(s), if any, in which the Commission most recently considered the applicant's rates for the system(s) involved.

(d) The address within the service area where the application is available for customer inspection during the time the rate application is pending.

(e) An affidavit signed by an officer of the utility that states that the utility will comply with the noticing requirements in Rule 25-30.486, F.A.C.

(2) In the limited proceeding application:

(a) Each schedule shall be cross-referenced to identify related schedules.

(b) Except for handwritten official company records, all data in the petition and application shall be typed.

(c) The original and twelve copies shall be filed with the Division of the Commission Clerk and Administrative Services.

(3) A filing fee as required in Rule 25-30.020, F.A.C., shall be submitted at the time of application.

(4) The following minimum filing requirements shall be filed with the utility's application for limited proceeding:

(a) A detailed statement of the reason(s) why the limited proceeding has been requested.

(b) If the limited proceeding is being requested to recover costs required by a governmental or regulatory agency, provide the following:

1. A copy of any rule, regulation, order or other regulatory directive that has required or will require the applicant to make the improvement or the investment for which the applicant seeks recovery.

2. An estimate by a professional engineer, or other person, knowledgeable in design and construction of water and wastewater plant, to establish the projected cost of the applicant's investment and the period of time required for completion of construction.

(c) A schedule that provides the specific rate base components for which the utility seeks recovery. Supporting detail shall be provided for each item requested, including:

1. The actual or projected cost(s);

2. The date the item will be or is projected to be placed in service;

3. Any corresponding adjustments that are required as a result of adding or removing the requested component(s) from rate base, which may include retirement entries; and

4. Any other relevant supporting information.

(d) If the utility's application includes a request for recovery of plant in service, accumulated depreciation and depreciation expense, supporting detail shall be provided by primary account as defined by the NARUC Uniform System of Accounts, as adopted by Rule 25-30.110, F.A.C.

(e) A calculation of the weighted average cost of capital shall be provided for the most recent 12-month period, using the mid-point of the range of the last authorized rate of return on equity, the current embedded cost of fixed-rate capital, the actual cost of short-term debt, the actual cost of variable-cost debt, and the actual cost of other sources of capital which were used in the last individual rate proceeding of the utility. If the utility does not have an authorized rate of return on equity, the utility shall use the current leverage formula adopted by the Commission pursuant to s. 367.081(4)(f), F.S.

(f) If the utility is requesting recovery of operating expenses, the following information shall be provided:

1. A detailed description of the expense(s) requested;

2. The total cost by primary account pursuant to the NARUC Uniform System of Accounts;

3. Supporting documentation or calculations; and

4. Any allocations that are made between systems, affiliates or related parties. If allocations are made, submit full detail that shows the total amount allocated, a description of the basis of the allocation methodology, the allocation percentage applied to each allocated cost, and the workpapers supporting the calculation of the allocation percentages.

(g) Calculations for all items that will create cost savings or revenue impacts from the implementation of the requested cost recovery items.

(h) If the utility includes any other items where calculations are required, supporting documentation shall be filed that reflects the calculations or assumptions made.

(i) A calculation of the revenue increase including regulatory assessment fees and income taxes, if appropriate.

(j) Annualized revenues for the most recent 12-month period using the rates in effect at the time the utility files its application for limited proceeding and a schedule reflecting this calculation by customer class and meter size.

(k) A schedule of current and proposed rates for all classes of customers.

(l) Schedules for the most recent 12-month period showing that, without any increased rates, the utility will earn below its authorized rate of return in accordance with s. 367.082, F.S. The schedules shall consist of a rate base, net operating income and cost of capital schedule with adjustments to reflect those consistent with the utility's last rate proceeding.

(m) If the limited proceeding is being requested to change the current rate structure, provide a copy of all workpapers and calculations used to calculate requested rates and allocations between each customer class. In addition, the following schedules should be provided from the Class A Water and/or Wastewater Utilities Accounting, Rate and Engineering

Minimum Filing Requirements (Form PSC/ECR 20 (11/93)) adopted by Rule 25-30.437, F.A.C. The test year should be the most recent 12-month period.

1. Schedule E-2, Revenue Schedule at Test Year Rates – Proof of Revenue.

2. Schedule E-12, Billing Analysis. Only two copies are required.

(n) Revised tariff sheets should not be filed with the application.

(5) A utility shall not file a request for a limited proceeding rate increase until it has demonstrated, that without recovery for the items requested in its application, the utility will earn less than its last authorized rate of return on equity. This demonstration shall include a calculation of the utility's achieved rate of return for the most recent 12-month period and shall reflect adjustments consistent with those made in the last rate proceeding for the utility. The Commission may reject a utility's request for a limited proceeding if the number of items on which recovery is sought is excessive or if the utility has not had a rate case in more than seven years. A limited proceeding shall not be filed for underearnings in lieu of a general rate case.

Specific Authority 350.127(2), 367.0822, 367.121(1)(a) FS. Law Implemented 367.0822, 367.121 FS. History—New

25-30.186 Notice of and Public Information for Application for Limited Proceeding Rate Increase.

(1) This rule applies to all requests for limited proceeding rate increases made by a water or wastewater utility.

(2) Upon filing a petition for limited proceeding rate increase, the utility shall mail a copy of the petition to the chief executive officer of the governing body of each municipality and county within the service areas included in the rate request. Each copy of the petition shall be accompanied by a statement that a copy of the minimum filing requirements (MFRs) when accepted by the Commission can be obtained from the petitioner upon request.

(3) Within 30 days after the official date of the filing established by the Commission, the utility shall place a copy of the petition and the MFRs at its official headquarters and at all business offices it has in the service areas included in the rate request. Such copies shall be available for public inspection during the utility's regular business hours. If the utility does not have a business office in a service area included in its rate request, the utility shall place a copy of the petition and the MFRs at the main county library, the local community center or other appropriate location which is within or most convenient to the service area and which is willing to accept and provide public access to the copies. If the Commission determines that these locations will not provide adequate access, the Commission will require that copies of the petition and MFRs be placed at other specified locations.

(4) Upon filing a petition and MFRs for a limited proceeding, the utility shall publish a notice of application in a newspaper of general circulation in the service areas included in the petition.

(5)(a) Within 50 days after the official date of filing established by the Commission, the utility shall provide, in writing, an initial customer notice to all customers within the service areas included in the rate request and to all persons in the same service areas who have filed a written request for service or who have been provided a written estimate for service within the 12 calendar months prior to the month the petition is filed.

(b) The initial customer notice must be approved by Commission staff prior to distribution and shall include the following:

1. The date the notice is to be issued;

2. A statement that the utility has filed a rate request with the Commission and a statement of the general reasons for the request;

3. A statement of the locations where copies of the MFRs and petition are available for public inspection and the hours and days when inspection may be made;

4. A comparison of current rates and charges and the proposed new rates and charges;

5. The utility's address, telephone number, and business hours;

6. A statement that written comments regarding utility service or the proposed rates and charges should be addressed to the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870, and that such comments should identify the docket number assigned to the proceeding;

7. A statement that complaints regarding service may be made to the Commission's Division of Consumer Affairs at the following toll-free number: 1(800)342-3552; and

8. The docket number assigned by the Commission's Division of the Commission Clerk and Administrative Services.

(c) The initial customer notice shall be mailed to the out-of-town address of all customers who have provided the utility with an out-of-town address.

(6) No less than 14 days and no more than 30 days prior to the date of a customer meeting conducted by the Commission staff, the utility shall provide written notice of the date, time, location, and purpose of the customer meeting to all customers within the service areas designated by the Commission staff. The notice must be approved by Commission staff prior to distribution. The notice shall be mailed to the out-of-town address of all customers who have provided the utility with an out-of-town address.



TIME AND DATE: 8:30 a.m. or as soon thereafter as possible, November 20, 2002

PLACE: Division of Real Estate, Commission Meeting Room 901, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Commission**

RULE TITLE: RULE NO.:

Continuing Education for Active and Inactive Broker and Salesperson Licensees 61J2-3.009

PURPOSE AND EFFECT: The purpose of the proposed rule development workshop is to bring the rule into compliance with statutory changes relating to distance education.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development affects rule provisions relating to continuing education courses.

SPECIFIC AUTHORITY: 455.2123, 475.01(1)(d),(e),(2), 475.42(1)(c) FS.

LAW IMPLEMENTED: 455.2123, 475.04, 475.17, 475.182, 475.183, 475.451 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: 8:30 a.m. or as soon thereafter as possible, November 20, 2002

PLACE: Division of Real Estate, Commission Meeting Room 901, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT WORKSHOP AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Commission**

RULE TITLE: RULE NO.:

Post-licensing Education for Active and Inactive Broker and Salesperson Licensees 61J2-3.020

PURPOSE AND EFFECT: The purpose of the proposed rule development workshop is to bring the rule into compliance with statutory changes, which took effect July 1, 2002, relating to distance education.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development affects rule provisions relating to the method of providing post-licensure education for real estate licensees.

SPECIFIC AUTHORITY: 475.05, 475.17 FS.

LAW IMPLEMENTED: 475.04, 475.17, 475.182 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: 8:30 a.m. or as soon thereafter as possible, November 20, 2002

PLACE: Division of Real Estate, Commission Meeting Room 901, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

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

**DEPARTMENT OF HEALTH**

**Board of Opticianry**

RULE TITLE: RULE NO.:

Standards for Continuing Professional Education 64B12-15.003

PURPOSE AND EFFECT: The Board proposes to review the existing language in this rule to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Standards for continuing professional education.

SPECIFIC AUTHORITY: 456.013(7), 484.005, 484.008(3) FS.

LAW IMPLEMENTED: 456.013(7), 484.008(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sue Foster, Executive Director, Board of Opticianry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

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

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLE: Standards of Practice for the Dispensing of Controlled Substances for Treatment of Pain

RULE NO.: 64B16-27.831

PURPOSE AND EFFECT: The Board proposes to amend the time requirement for providing controlled substance prescription records pursuant to Section 465.017(2), Florida Statutes in order to accommodate any non-business hours over week-ends.

SUBJECT AREA TO BE ADDRESSED: The rule amends the required time for providing controlled substance prescription records to authorized law enforcement personnel pursuant to Section 465.017(2), Florida Statutes.

SPECIFIC AUTHORITY: 465.005, 465.0155 FS.

LAW IMPLEMENTED: 465.0155, 456.072(1)(i), 465.016(1)(i), 465.016(1)(o), 465.017(2) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON DECEMBER 3, 2002 IN MIAMI, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: John Taylor, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B16-27.831 Standards of Practice for the Dispensing of Controlled Substances for Treatment of Pain.

(1) through (4) No change.

(5) Every pharmacy permit holder shall maintain a computerized record of controlled substance prescriptions dispensed. A hard copy printout summary of such record, covering the previous 60 day period, shall be made available within 72 ~~24~~ hours following a request for it by any law

enforcement personnel entitled to request such summary under authority of Section 465.017(2), F.S. Such summary shall include information from which it is possible to determine the volume and identity of controlled substance medications being dispensed under the prescription of a specific prescriber, and the volume and identity of controlled substance medications being dispensed to a specific patient.

(6) No change.

Specific Authority 465.005, 465.0155 FS. Law Implemented 465.0155, 456.072(1)(i), 465.016(1)(i), 465.016(1)(o), 465.017(2) FS. History--New 8-29-02, Amended.

**DEPARTMENT OF HEALTH**

**Board of Respiratory Care**

RULE TITLE: Procedures for Approval of Attendance at Continuing Education Courses

RULE NO.: 64B32-6.004

PURPOSE AND EFFECT: The Board proposes to update existing rule text.

SUBJECT AREA TO BE ADDRESSED: Procedures for Approval of Attendance at Continuing Education Courses.

SPECIFIC AUTHORITY: 468.353(1), 468.361(2) FS.

LAW IMPLEMENTED: 468.361(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND FOR A COPY OF THE PRELIMINARY DRAFT IS: Kaye Howerton, Board Executive Director, Board of Respiratory Care, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B32-6.004 Procedures for Approval of Attendance at Continuing Education Courses.

(1) No change.

(2) Excluding any recertification, review, refresher, or preparatory courses, all licensees shall be awarded contact hours for:

(a) Attendance at offerings that are approved by:

1. The American Association for Respiratory Care (AARC) as Category I or III,

2. The Florida Society for Respiratory Care, and

3. The Accreditation Council for Continuing Medical Education (ACCME) ~~American Medical Association (AMA)~~ ~~as Category I~~, the American and Florida Thoracic Societies, the American College of Cardiology, the American College of Chest Physicians, the American and Florida Societies of Anesthesiologists, the American and Florida Lung Association, the National Society for Cardiopulmonary

Technologists, the American Health Association, the American Nurses Association, and the Florida Nurses Association, provided that they are related to respiratory care services;

- (b) through (f) No change.
- (3) through (4) No change.

Specific Authority 468.353(1), 468.361(2) FS. Law Implemented 468.361(2) FS. History—New 4-29-85, Formerly 21M-38.04, Amended 9-29-86, 11-29-88, 9-24-92, 10-15-92, Formerly 21M-38.004, Amended 1-2-94, 7-10-94, Formerly 61F6-38.004, Amended 11-1-94, 3-14-95, 7-18-95, 4-24-96, 8-27-96, Formerly 59R-75.004, 64B8-75.004, Amended 6-8-00, 5-7-01.

**DEPARTMENT OF HEALTH**

**Biomedical Research Advisory Council**

RULE TITLE: Biomedical Research Grant Applications

RULE NO.: 64H-1.001

PURPOSE AND EFFECT: Amendment to this rule is necessary to incorporate the updated manual and forms required to apply for research grants under the Florida Biomedical Research Program, pursuant to the provisions of Section 215.5602, F.S. The documents were amended for the 2002 grant application process.

SUBJECT AREA TO BE ADDRESSED: The proposed rule incorporates updated versions of the Grant Application Manual and the Grant Application Form.

SPECIFIC AUTHORITY: 215.5602(9) FS.

LAW IMPLEMENTED: 215.5602(5) FS.

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

TIME AND DATE: 2:00 p.m. – 3:00 p.m. (EST), Monday, November 25, 2002

PLACE: Department of Health, Prather Building, Conference Room 135Q, 2484 Merchants Row Boulevard, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Susan Phillips, Florida Biomedical Research Program, Department of Health, 4052 Bald Cypress Way, Bin #A07, Tallahassee, FL 32399-1708, (850)245-4444, Ext. 3652

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64H-1.001 Biomedical Research Grant Applications.

Grant applications for ~~Investigator-Initiated Research Projects and New Investigator Research Projects~~ shall be conducted in accordance with the Grant Application Manual dated ~~September 9, 2002~~ January 2002, incorporated by reference herein. Application must be submitted on the Biomedical Research Program Grant Application Form DH 2117, 7/02-2/04, incorporated by reference herein.

Specific Authority 215.5602(9) FS. Law Implemented 215.5602(5) FS. History—New 3-11-02, Amended \_\_\_\_\_.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Developmental Disabilities Program**

RULE TITLE: Siting

RULE NO.: 65B-6.014

PURPOSE AND EFFECT: To implement the provisions of Section 393.501(2), F.S., requiring the department to adopt rules addressing the number of facilities on a single parcel and adjacent parcels of land. This proposed rule would, for facilities licensed or established after the effective date of the rule, limit the number of residential facilities able to be licensed on a single parcel and adjacent parcels of land based on criteria defined in the rule.

SUBJECT AREA TO BE ADDRESSED: The number of facilities on a single parcel and adjacent parcels of land.

SPECIFIC AUTHORITY: 393.067, 393.501 FS.

LAW IMPLEMENTED: 393.063, 393.066, 393.067, 393.13, 393.501 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 IN REGARD TO THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Hilary Brazzell, Developmental Disabilities Program Office, Department of Children and Families, 1317 Winewood Blvd., Tallahassee, FL 32399-0700, (850)488-4877, Extension 138

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

65B-6.014 Siting.

(1) This rule applies to residential facilities licensed by the Department of Children and Family Services pursuant to Chapter 393, Fla. Stat. The statutory authority for this rule is Section 393.501(2), Fla. Stat. (2001).

(2) For community residential homes, as defined in Section 419.001(1)(a), Fla. Stat. (2001), and any other type of residential facility seeking licensure as foster care facilities or group home facilities under Chapter 393, F.S., after the effective date of this rule, only one dwelling unit may be sited on a single parcel of land unless an exception is granted as described in paragraphs (6) and (7) below. As to dwelling units on adjacent parcels, paragraphs (3) and (4) below shall also apply. This rule shall also apply to residential habilitation centers seeking licensure as a foster care facility(ies) or group home facility(ies), after the effective date of this rule.

(3) As to adjacent parcels of land, in no event shall more than two (2) licensed residential facilities be sited on adjacent parcels, unless an exception is granted as described in

paragraphs (6) and (7) below. This provision shall apply only to residential facilities seeking initial licensure or licensure in a different licensing category after the effective date of this rule.

(4) For facilities seeking initial licensure or licensure in a different licensing category after the effective date of this rule, no more than two (2) licensed residential facilities shall be sited within 1,000 feet of an existing licensed residential facility(ies). Accordingly, no more than a total of three (3) licensed residential facilities shall be sited within a 1,000 foot radius. Distance shall be measured along a radius from the center of the actual site where the new proposed residential facility is to be located in all directions. The facility seeking initial licensure or a change in an existing license shall be included in the computation of numbers of facilities within the 1,000 foot radius.

(5) All facilities seeking initial licensure or licensure in a different licensing category after the effective date of this rule must also fully comply with the requirements of Section 419.001, Fla. Stat. (2001), to the extent applicable.

(6) Exceptions to paragraphs (2) and (3) may be granted for the following reasons:

(a) The parcel is completely divided by a body of water, or a limited access highway which is impossible for an individual to cross on foot, by bicycle, by motor vehicle or other means of transport conveyance and which would separate the facilities.

(b) The exception would improve opportunities for community integration for individuals with developmental disabilities in rural areas. A rural area is defined as an area where the number of dwelling units for the parcel allowed by the comprehensive plan, as required by Section 163.3167, Fla. Stat., is one (1) dwelling unit per acre or fewer.

(c) Where the level of concentration of licensed residential facilities and the overall character of the neighborhood can be shown to be such that an exception, permitting licensure of a new residential facility in the area, would still be consistent with maximum integration of individuals with developmental disabilities into the community, including in their places of residence.

(7) The Director of the Developmental Disabilities Program shall make the final decision as to whether an exception should be granted. The burden of proving the appropriateness of an exception shall be with the applicant.

Specific Authority 393.067, 393.501 FS. Law Implemented 393.063, 393.066, 393.067, 393.13, 393.501 FS. History—New

## Section II Proposed Rules

### DEPARTMENT OF BANKING AND FINANCE

#### Board of Funeral and Cemetery Services

RULE TITLES:	RULE NOS.:
Merchandise Trust Funds – Status of Accounts	3F-7.007
Trust Agreements and Trustees	3F-7.015

**PURPOSE AND EFFECT:** The Board proposes to amend Rule 3F-7.007, F.A.C., to remove obsolete language and Rule 3F-7.015, F.A.C., is being amended to add a new subsection (5) regarding the transfer of assets to another trust fund.

**SUMMARY:** Rule 3F-7.007, F.A.C., explains what the merchandise trust fund is for, where the monies deposited come from, what happens to the funds while in the trust, and how the funds are disbursed when disbursements are due. Rule 3F-7.015, F.A.C., explains the requirements of trust agreements and their approval and now sets forth how and when it is permissible to transfer assets to another trust account.

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

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

**SPECIFIC AUTHORITY:** 497.103 FS.

**LAW IMPLEMENTED:** 497.237, 497.337 FS.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING DATE WILL BE SCHEDULED AND ANNOUNCED IN THE FAW. (IF NOT REQUESTED IN WRITING, A HEARING WILL NOT BE HELD):**

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Diana Evans, Executive Director, Board of Funeral and Cemetery Services, 101 East Gaines Street, Tallahassee, FL 32399-0350

**THE FULL TEXT OF THE PROPOSED RULES IS:**

3F-7.007 Merchandise Trust Funds – Status of Accounts.  
For purposes of merchandise trust funds, under the provisions of the Funeral and Cemetery Act prior to implementation of 93-399, Laws of Florida, a merchandise trust fund ~~created in~~ ~~uniformity with the requirements of the Florida Cemetery Act~~ is in the nature of a master account (“the Fund”) used for