

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF STATE

Division of Library and Information Services

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| RULE NOS.: | RULE TITLES: |
| 1B-30.001 | Rule Numbering and Rule Title |
| 1B-30.0015 | Definitions |
| 1B-30.002 | Style and Form for Filing Rules; Certification Accompanying Materials |
| 1B-30.003 | Florida Administrative Weekly |
| 1B-30.004 | Legal Citations and History Notes |
| 1B-30.005 | Materials Incorporated by Reference |
| 1B-30.007 | Uniform Indexing Procedures |

PURPOSE AND EFFECT: The purpose of amending the abovementioned rules is to clarify agency rulemaking. In addition, the abovementioned rules are being transferred from Chapter 1S-1 to Chapter 1B-30, F.A.C.

SUBJECT AREA TO BE ADDRESSED: The above mentioned rules address submitting notices for publication in the Florida Administrative Weekly, proper coding of rule text, filing rules for adoption and materials incorporated by reference.

SPECIFIC AUTHORITY: 120.54(1)(j), 120.55(1)(c) FS.

LAW IMPLEMENTED: 120.54(1)-(3), (6), 120.55(1), (3), 403.8055 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.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Liz Cloud, Administrative Code Section: Florida Department of State, Room 101, R. A. Gray Building, 500 South Bronough Street, Tallahassee, FL 32399-0250, (850)245-6270. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Liz Cloud, Administrative Code Section, Florida Department of State, Room 101, R. A. Gray Building, 500 South Bronough Street, Tallahassee, FL 32399-0250, (850)245-6270

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

DEPARTMENT OF EDUCATION

State Board of Education

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| RULE NO.: | RULE TITLE: |
| 6A-1.099822 | School Improvement Rating for Alternative Schools |

PURPOSE AND EFFECT: The purpose of the rule development is to define the terms and process used to calculate a school improvement rating for alternative schools. The effect of the rule will be the definition of an alternative school for the purpose of calculating an improvement rating; the establishment of a process to identify alternative schools; and the establishment of a process for calculating a school improvement rating that fulfills statutory requirements for school accountability.

SUBJECT AREA TO BE ADDRESSED: School Improvement Ratings for Alternative Schools.

SPECIFIC AUTHORITY: 1008.34, 1008.341 FS.

LAW IMPLEMENTED: 1008.34, 1008.341 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATES, TIMES AND PLACE SHOWN BELOW:

DATES AND TIMES: August 30, 2007, 3:00 p.m. – 5:00 p.m.; September 6, 2007, 3:30 p.m. – 5:30 p.m.

PLACE: August 30 – Department of Education, 325 West Gaines Street, Room 1706, Tallahassee, Florida 32399-0400
September 6 – Renaissance Orlando Resort at SeaWorld, 6677 Sea Harbor Drive, Orlando, Florida 32821

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Juan Copa, Director, Office of Evaluation and Reporting, 325 West Gaines Street, Room 445, Tallahassee, Florida 32399-0400

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

DEPARTMENT OF REVENUE

Sales and Use Tax

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| RULE NOS.: | RULE TITLES: |
| 12A-1.053 | Electric Power and Energy |
| 12A-1.087 | Exemption for Power Farm Equipment; Suggested Exemption Certificate for Items Used for Agricultural Purposes |

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.053, F.A.C. (Electric Power and Energy), is to provide that provisions for the exemption for electricity used for the production or processing of agricultural farm products on a farm are provided in Rule 12A-1.087, F.A.C.

The purpose of the proposed amendments to Rule 12A-1.087, F.A.C., (Exemption for Power Farm Equipment; Suggested Exemption Certificates for Items Used for Agricultural Purposes), is to: (1) to change the rule title to reflect the changes in the rule; (2) incorporate the provisions of Sections

1-2, Chapter 2005-197, L.O.F., regarding the exemption provided for power farm equipment; (3) incorporate the provisions of Section 19, Chapter 2006-289, L.O.F., and Chapter 2007-56, L.O.F., regarding the exemption provided for electricity used for the production or processing of agricultural farm products on a farm; (4) provide that the purchase, lease, or rental of power farm equipment that is purchased and invoiced as a single working unit is exempt, but when purchased separately only items qualifying as power farm equipment are tax-exempt; and (5) eliminate the requirement for an exemption certificate to be issued by the purchaser to the seller for the purchase of tax-exempt seeds, including field, garden, and flower seeds, as seeds are tax-exempt regardless of their use.

The proposed amendments to Rule 12A-1.087, F.A.C.: (1) provide that "power farm equipment," as defined in Chapter 2005-197, L.O.F., is exempt from tax, and change the rule title to reflect this statutory change; (2) remove obsolete definitions of the terms "self-propelled," "power-drawn," and "power-driven" farm equipment; (3) eliminate the 2.5% tax rate imposed on certain equipment prior to July 1, 2005; (4) provide examples of power farm equipment qualifying for the exemption; (5) provide that the purchase, lease, or rental of power farm equipment that is purchased and invoiced as a single working unit is exempt, but when purchased separately only items qualifying as power farm equipment are tax-exempt; (6) provide examples of items purchased and invoiced as a single working unit that qualifies for the exemption for power farm equipment; (7) provide that generators and power units are included in the definition of power farm equipment; (8) eliminate obsolete provisions regarding generators; (9) eliminate the requirement for an exemption certificate to be issued by the purchaser to the seller for the purchase of tax-exempt seeds, including field, garden, and flower seeds; (10) provide requirements for the exemption provided by Section 19, Chapter 2006-289, L.O.F., and amended by Chapter 2007-56, L.O.F., for electricity used for the production or processing of agricultural farm products on a farm and a suggested purchaser's exemption certificate to be issued to electric utilities; (11) revise the suggested exemption certificate to incorporate the exemption provided for power farm equipment and a statement that the facts stated in the exemption certificate are true and to remove the obsolete term "self-propelled, power-drawn, or power-driven farm equipment" and the obsolete requirement to issue an exemption certificate to purchase seeds tax-exempt; and (12) provide technical changes.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the proposed amendments to Rules 12A-1.053 and 12A-1.087, F.A.C., that are necessary to implement the provisions of Sections 1 and 2, Chapter 2005-197, L.O.F., regarding the tax exemption provided for power farm equipment, and the provisions of Section 19, Chapter

2006-289, L.O.F., and Chapter 2007-56, L.O.F., regarding the exemption provided for electricity used for the production or processing of agricultural farm products on a farm.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS.
LAW IMPLEMENTED: 212.02(2), (14)(c), (19), (30), (31), (32), 212.05(1), 212.0501, 212.06(1), 212.07(5), 212.08(3), (4), (5)(a), (e), (7)(j), 212.085, 212.18 FS.

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

DATE AND TIME: August 29, 2007, 10:00 a.m.

PLACE: Florida Farm Bureau Building, 5700 S. W. 34th Street, Gainesville, Florida

Pursuant to the provisions of the Americans 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: Larry Green at (850)922-4830. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Richard Parsons, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4838

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12A-1.053 Electric Power and Energy.

(1) through (3) No change.

(4) See Rule 12A-1.087, F.A.C., for requirements to claim the exemption for electricity used for the production or processing of agricultural farm products on a farm.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(2), (19), 212.05(1)(e), 212.06(1)(a), (b), 212.08(4), (5)(e)2., (7)(j), 212.18(2) FS, History—Revised 10-7-68, 6-16-72, Amended 12-11-74, 10-18-78, 6-3-80, 12-23-80, 7-20-82, Formerly 12A-1.53, Amended 10-2-01, 4-17-03, _____.

12A-1.087 ~~Partial~~ Exemption for Power Farm Equipment; Suggested Exemption Certificate for Items Used for Agricultural Purposes.

(1)(a) The sale, rental, lease, use, consumption, or storage for use of power self-propelled, power-drawn, or power-driven farm equipment is exempt taxable at the rate of 2.5 percent. To qualify for this the partial exemption, the power farm such equipment must be used exclusively on a farm or in a forest in the agricultural production of crops or products as produced by those agricultural industries included in Section s- 570.02(1), F.S., or for fire prevention and suppression work with respect to such crops or products. Power Self-propelled, power-drawn, or power-driven farm equipment that is not purchased, leased,

or rented for exclusive use in the agricultural production of agricultural products, or for fire prevention or suppression work with respect to such crops or products, does not qualify for this partial exemption. This partial exemption is not forfeited by moving qualifying power farm equipment between farms or forests.

(b) The exemption will not be allowed unless the purchaser furnishes the seller a written certificate that the purchased items qualify for the exemption limitation under Section s. 212.08(3), F.S. The format of a suggested certificate is contained in subsection (10)(4).

~~(c) Dealers who accept in good faith the required certificate from the purchaser will not be assessed sales tax in excess of 2.5 percent on sales of qualifying equipment purchased for a nonexempt use. In such instances, the Department will look solely to the purchaser for any additional sales tax due.~~

(2) For purposes of this rule, the following definitions will apply:

(a) Agricultural industries, as defined in Section s. 570.02(1), F.S., include aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production.

(b) Agricultural production, as defined in Section s. 212.02(32)(34), F.S., means the production of plants and animals useful to humans, including the preparation, planting, cultivating, or harvesting of these products or any other practices necessary to accomplish production through the harvest phase, and includes aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production.

(c) Aquaculture products, as defined in Section s. 597.0015(3), F.S., means aquatic organisms and any product derived from aquatic organisms that are owned and propagated, grown, or produced under controlled conditions. Such products do not include organisms harvested from the wild for depuration, wet storage, or relay for purification.

(d) Cultivating means the nurturing or the fostering of growth of an agricultural crop or product, including the elimination of weeds. Examples of cultivating include, but are not limited to: feeding, fertilizing, plowing, pruning, and spraying agriculture crops or products.

(e) Forest, as defined in Section s. 212.02(31)(33), F.S., means the land stocked by trees of any size used in the production of forest products, or formerly having such tree cover, and not currently developed for nonforest use.

(f) Harvesting means the act or process of cutting, reaping, digging up, or gathering an agricultural product or crop from a place where grown. Harvesting does not include the processing of crops or products.

(g) Processing means the act of changing or converting the nature of a product after it has been harvested.

~~(3)(a) Power Self-propelled farm equipment, as defined in Section s. 212.02(30), F.S., includes: means equipment that contains within itself the means for its own propulsion, including, but not limited to tractors. In addition to tractors, qualifying propelled farm equipment also includes, but is not limited to:~~

1. Aerators.

~~2.(a) All-terrain vehicles.~~

3. Augers.

4. Automated potting, transplanting, seeding, soil mixing, and flat filling equipment.

5. Bale shredders.

~~6.(b) Backhoes.~~

~~7.(c) Boats and boat motors, purchased together or separately, for use in the agricultural production of aquaculture products on a farm. See subsection (4) of this rule regarding specific guidelines for persons engaging in aquaculture activities.~~

~~8.(d) Bulldozers.~~

9. Chainsaws.

~~10.(e) Combines.~~

11. Conveyers.

12. Corn, cotton, grain, and bean heads for use on combines.

13. Cultivators.

14. Disks.

15. Electric fans.

16. Feed mills (portable).

17. Feeding stations.

18. Feeding systems.

~~19.(f) Feller bunchers.~~

~~20.(g) Fertilizer Forest fertilizer spreaders.~~

21. Field trailers and wagons.

22. Forklifts, excluding forklifts used for processing farm products.

23. Front-end loaders.

24. Harrows.

25. Hay balers, hay cutters, hay rakes, and tedders.

~~26.(h) Irrigation equipment (Traveling "gun-type" and center pivot irrigation systems), excluding replacement hoses and pipes that are not an integral part of the moving system.~~

27. Livestock feeders.

28. Log loaders.

29. Milking machines.

30. Motorized pumps.

31. Mowers.

32. Planters.

33. Plows.

34. Power units, including electric-powered, fuel-powered, or solar-powered motors or engines.

35. Scalpers.

- 36. Scrapers, graders, and grade boxes.
- 37.(+) Skid steer loaders.
- 38.(+) Skidders.
- 39. Sod cutters.
- 40. Sod harvesters.
- 41. Sprayers.
- 42. Spreaders.
- 43. Tractors.
- 44. Tree bedders.
- 45. Wood chippers (field type).

(b) The purchase, lease, or rental of power farm equipment which is invoiced as a single working unit that is used exclusively on a farm or in a forest, as provided in paragraph (1)(a), qualifies for the exemption. When the component parts are invoiced separately, only those components that qualify for the exemption, as provided in paragraph (1)(a), may be purchased, leased, or rented tax-exempt.

1. Example: An irrigation supply system is purchased for use on a farm to provide water to an agricultural crop. The irrigation supply system, consisting of pumps, pipes, tubing, hoses, generator, motors, and other items, is purchased and invoiced as a single item at a single price. The purchase of the irrigation supply system is exempt.

2. Example: A farmer owns an irrigation supply system and wants to replace or update various components of the system. The farmer purchases an additional pump, a generator, and various hoses, pipe, and connectors in order to replace or update the system. The pump and generator qualify as power farm equipment, and these items may be purchased tax-exempt. The purchase of the various hoses, pipe, and connectors does not qualify as a purchase of power farm equipment and is subject to tax at the time of purchase.

(4)(a) Persons engaged in the agricultural production of aquaculture products qualify for the partial exemption on their purchase or lease of a boat or boat motor to be used exclusively for aquacultural purposes. To qualify for exemption, such person must be registered with the Department of Agriculture and Consumer Services under Section § 597.004, F.S., as a person engaged in aquaculture. For purposes of this rule, a farm includes submerged sites leased from the state under the authority of Section § 253.68, F.S., by a person engaged in aquaculture activities.

(b) Example: A clam farmer leases a submerged site from the state pursuant to Section § 253.68, F.S., and is certified under Section § 597.004, F.S., with the Department of Agriculture and Consumer Services. The clam farmer qualifies for the partial exemption on the purchase or lease of a boat used exclusively in the agricultural production of clams on the leased site. The exemption is not forfeited by moving boats between farms.

~~(5) Power drawn farm equipment, as defined in s. 212.02(31), F.S., means farm equipment that is pulled, dragged, or otherwise attached to self-propelled equipment, including, but not limited to, disks, harrows, hay balers, and mowers. In addition to the equipment included in the statutory definition, power drawn farm equipment also includes, but is not limited to:~~

- ~~(a) Bale shredders.~~
- ~~(b) Corn, cotton, grain, and bean heads for use on combines.~~
- ~~(c) Cultivators.~~
- ~~(d) Feed mills (portable).~~
- ~~(e) Field trailers, wagons, and carts.~~
- ~~(f) Front-end loaders.~~
- ~~(g) Livestock feeders.~~
- ~~(h) Log loaders.~~
- ~~(i) Planters.~~
- ~~(j) Plows.~~
- ~~(k) Sealers.~~
- ~~(l) Scrapers, graders, grade boxes.~~
- ~~(m) Sprayers.~~
- ~~(n) Spreaders.~~
- ~~(o) Tree bedders.~~
- ~~(p) Wood chippers (field type).~~

~~(6) Power driven farm equipment, as defined in s. 212.02(32), F.S., means moving or stationary equipment that is dependent upon an external power source to perform its function, including, but not limited to, conveyors, augers, feeding systems, and pumps. In addition to the equipment included in the statutory definition, power driven farm equipment also includes, but is not limited to:~~

- ~~(a) Aerators.~~
- ~~(b) Automated potting, transplanting, seeding, soil mixing, and flat filling equipment.~~
- ~~(c) Chain saws.~~
- ~~(d) Milking machines.~~

~~(5)(7)(a) Power Self-propelled and power drawn farm equipment does not include vehicles (including vehicles without motive power, such as cattle trailers and log trailers) that are required to be licensed as a motor vehicle under Chapter 320, F.S.~~

~~(b) Power Self-propelled and power drawn farm equipment does not include equipment used for processing agricultural crops or products.~~

~~(6)(8)(a) Generators (excluding generators purchased for use on poultry farms), motors, and similar types of equipment used exclusively as a power source on a farm or in a forest, as provided in paragraph (1)(a), are exempt from tax to supply power to power driven farm equipment do not qualify as power driven farm equipment and are taxable at the 6 percent rate. Generators that are attached to and are sold as an integral part of the qualifying farm equipment qualify for the partial~~

exemption. For example: a diesel-powered generator used to supply power to an irrigation pump qualifies for the exemption. A generator used to power equipment used in agricultural production also qualifies for the exemption.

~~1. Example: A diesel powered generator used to supply power to an irrigation pump does not qualify, since it is the external power source that runs the qualifying equipment. The qualifying equipment in this example is the irrigation pump.~~

~~2. Example: A diesel powered irrigation pump that pumps water from a supply source qualifies as power driven farm equipment. In some instances, a generator is attached to and is powered by the irrigation pump, and the generator supplies power to the moving irrigation system. In this example, since the generator is an integral part of the irrigation pump, it qualifies as power driven farm equipment when sold as part of the pump.~~

~~(b) Generators purchased, rented, or leased for use on a poultry farm are exempt from sales tax under Section 212.08(5)(a), F.S. The exemption will not be allowed unless the purchaser or lessee issues to the seller a signed certificate stating the generator is purchased or leased for exclusive use on a poultry farm. Although the Department does not furnish the printed form to be executed by farmers when purchasing qualifying generators, a suggested certificate is contained in subsection (11).~~

~~2. Dealers who accept in good faith the required certificate from the purchaser will not be assessed sales tax on sales of qualifying generators purchased for a non-exempt use. In such instances, the Department will look solely to the purchaser for any additional sales tax due.~~

~~(7)(9) The partial exemption for power farm equipment does not apply to charges for repairs to farm equipment or to purchases of replacement parts for such equipment.~~

~~(8)(10)(a) The following sales and uses of liquefied petroleum gas, diesel, and kerosene are exempt when:~~

~~1. Sold for use in any tractor, vehicle, or other farm equipment that is used exclusively on a farm for farming purposes.~~

~~2. Consumed in transporting farm vehicles and farm equipment between farms.~~

~~3. Sold for use to heat a structure in which started pullets or broilers are raised.~~

~~4. Sold for use to transport bees by water and in the operation of equipment used in the apiary of a beekeeper.~~

~~(b) Liquefied petroleum gas, diesel, and kerosene sold for use in any tractor or vehicle driven or operated upon the public highways of the state is subject to tax.~~

(9)(a) Electricity used for the production or processing of agricultural farm products on a farm is exempt only if the electricity is separately metered from the electricity used for nonproduction or nonprocessing purposes. If the electricity is centrally metered and is used for both tax-exempt and taxable purposes, the purchase of the electricity is subject to tax.

(b) The exemption will not be allowed unless the purchaser furnishes its utility a written certificate stating that the electricity is used on a farm for the production or processing of agricultural farm products and qualifies for the exemption under Section 212.08(5)(e)2., F.S. The following is a suggested format of a purchaser's exemption certificate to be issued to a utility company to make tax-exempt purchases of electricity used for this purpose:

SUGGESTED PURCHASER'S EXEMPTION
CERTIFICATE ELECTRICITY USED FOR
THE PRODUCTION OR PROCESSING OF
AGRICULTURAL PRODUCTS ON A FARM

I certify that the electricity used on or after (DATE) from (UTILITY COMPANY) consumed through the following meter(s) will be used in the production or processing of agricultural farm products on a farm and is exempt from sales tax pursuant to Section 212.08(5)(e)2., Florida Statutes.

I understand that if the electricity purchased does not qualify for exemption under Section 212.08(5)(e)2., Florida Statutes, then I must pay the tax on the purchase directly to the Department of Revenue.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax, I will be liable for payment of the sales tax, plus a mandatory penalty of 200% of the tax, and will be liable for fine and punishment provided by law for conviction of a felony of the third degree, as provided in Section 775.082, 775.083, or 775.084, Florida Statutes.

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

Purchaser's Name and Title
(Print or Type)

Purchaser's Address

Signature

Date

(10)(11) Suggested Exemption Certificate for Items Used for Agricultural Purposes.

(a) Any person who purchases items that qualify for the exemption limitation under Section 212.08(3), F.S., must issue an exemption certificate to the selling dealer to purchase qualifying power farm equipment tax-exempt at the rate of 2.5 percent. Any purchaser who purchases items for agricultural purposes must also issue an exemption certificate to the selling dealer in lieu of paying tax. The exemption certificate must contain the purchaser's name and address, the reason for which the use of the item qualifies for exemption based on its use, and the signature of the purchaser or an authorized representative of the purchaser.

(b) Seeds, including field, garden, and flower seeds are exempt. The purchaser is not required to issue an exemption certificate to the selling dealer to purchase seeds tax-exempt.

~~(c)(b)~~ The selling dealer is only required to obtain one certificate for sales made for the purposes indicated on the certificate and is not required to obtain an exemption certificate for subsequent sales made to the same purchaser for the exempt purpose indicated on the exemption certificate. The selling dealer must maintain the required exemption certificates in its books and records until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under Section 95.091(3), F.S.

(d) Dealers who accept in good faith the required certificate from the purchaser or lessee will not be assessed sales tax on sales of power farm equipment or items for agricultural use or for agricultural purposes. In such instances, the Department will look solely to the purchaser or lessee for any additional sales or use tax due.

~~(e)(e)~~ Selling dealers may contact the Department at (800)352-3671 ~~+(800)352-3674~~ to verify the specific exemption specified by the purchaser or lessee. Persons with hearing or speech impairments may call the Department's TDD, at (800)367-8331 ~~+(800)367-8334~~.

~~(f)(d)~~ The following is a suggested format of an exemption certificate to be issued by any person purchasing or leasing power farm equipment qualifying for exemption items that qualify for the limitation under Section 212.08(3), F.S., or items that qualify for exemption as items for agricultural use or items for agricultural purposes. Exemption purposes listed on the suggested format that are not relevant to the purchaser or lessee may be eliminated from the certificate. The Department does not furnish the printed exemption certificate to be executed by purchasers or lessees when purchasing tax-exempt power farm equipment or items for agricultural use or for agricultural purposes.

SUGGESTED PURCHASER'S EXEMPTION CERTIFICATE

ITEMS FOR AGRICULTURAL USE OR FOR AGRICULTURAL PURPOSES AND POWER CERTAIN FARM EQUIPMENT

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

- Cloth, plastic, or similar material used for shade, mulch, or protection from frost or insects on a farm.
- Fertilizers (including peat, topsoil, sand used for rooting purposes, peatmoss, compost, and manure, but not fill dirt), insecticides, fungicides, pesticides, and weed killers used for application on or in the cultivation of crops, groves, home vegetable gardens, and commercial nurseries.

Generators purchased, rented, or leased for exclusive use on a poultry farm.

Insecticides and fungicides, including disinfectants, used in dairy barns or on poultry farms for the purpose of protecting cows or poultry or used directly on animals, as provided in Section 212.08(5)(a), F.S.

Nets, and parts used in the repair of nets, purchased by commercial fisheries.

Nursery stock, seedlings, cuttings, or other propagative material for growing stock.

Portable containers, or moveable receptacles in which portable containers are placed, that are used for harvesting or processing farm products.

~~(-)~~ ~~Seeds, including field and garden seeds and flower seeds.~~

~~Seedlings, Seeds, seedlings,~~ cuttings, and plants used to produce food for human consumption.

Items that are used by a farmer to contain, produce, or process an agricultural commodity, such as: glue for tin and glass for use by apiarists; containers, labels, and mailing cases for honey; wax moth control with paradichlorobenzene; cellophane wrappers; shipping cases; labels, containers, clay pots and receptacles, sacks or bags, burlap, cans, nails, and other materials used in packaging plants for sale; window cartons; baling wire and twine used for bailing hay; and other packaging materials for one time use in preparing an agricultural commodity for sale.

Liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised.

Liquefied gas, diesel, or kerosene used to transport bees by water and in the operation of equipment used in the apiary of a beekeeper.

Liquefied petroleum gas, diesel, or kerosene used for agricultural purposes in any tractor, vehicle, or other farm equipment that is used exclusively on a farm for farming purposes.

Power farm ~~Self-propelled, power drawn, or power driven~~ equipment, when purchased, rented, or leased for exclusive use in the agricultural production of crops or products as produced by those agricultural industries included in Section 570.02(1), F.S., or for fire prevention and suppression work with respect to such crops or products; ~~taxable at the rate of 2.5 percent.~~

Other (include description and statutory citation):

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

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

The exemption specified by the purchaser may be verified by calling (800) 352-3671 ~~+(800)352-3671~~.

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

Purchaser's Name: _____

Purchaser's Address: _____

Name and Title of Purchaser's Authorized Representative: _____

Sales and Use Tax Certificate of Registration No. (if applicable): _____

By: _____

(Signature of Purchaser or Authorized Representative): _____

Title: _____

(Title – only if purchased by an authorized representative of a business entity)

Date: _____

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14)(c), (30), (31), (32), ~~(33), (34)~~, 212.05(1), 212.0501, 212.06(1), 212.07(5), 212.08(3), (5)(a), (e), 212.085 FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 10-18-78, 7-20-82, 4-12-84, Formerly 12A-1.87, Amended 12-13-88, 3-1-00, 6-19-01,_____.

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

| | |
|------------|---|
| RULE NOS.: | RULE TITLES: |
| 12C-2.001 | Definitions |
| 12C-2.002 | Property Subject to Tax – Annual and Nonrecurring |
| 12C-2.003 | Exemptions |
| 12C-2.004 | Property Subject to Tax – Government Leasehold Estates and Nonrecurring |
| 12C-2.005 | Reporting Requirements – Due Date – Payment of Tax – Discounts Allowed |
| 12C-2.006 | Taxable Situs – Reporting Requirements – Who Shall File a Return |
| 12C-2.0061 | Transfer of Intangible Personal Property to Certain Out-of-State Entities |
| 12C-2.0062 | Management or Control |
| 12C-2.0063 | Intangible Personal Property Held in Trusts |
| 12C-2.007 | Penalties and Interest |
| 12C-2.008 | Information Reports |
| 12C-2.010 | Valuations |

| | |
|------------|------------------|
| 12C-2.0105 | Tax Credits |
| 12C-2.011 | Administration |
| 12C-2.0115 | Public Use Forms |
| 12C-2.012 | Refunds |

PURPOSE AND EFFECT: The purpose of the proposed changes to Rule Chapter 12C-2, F.A.C. (Intangible Personal Property Tax), is to remove provisions regarding the administration of the annual intangible personal property tax repealed effective January 1, 2007, by Chapter 2006-312, L.O.F. The proposed changes to Rule Chapter 12C-2, F.A.C. (Intangible Personal Property Tax): (1) remove provisions from the rule chapter that have been rendered obsolete with the repeal of the annual personal property tax; and (2) update, consolidate, and simplify provisions for the administration of the 1 mil tax imposed on the value of leases government-owned property and the 2 mil nonrecurring tax imposed on the value of notes, bonds, and other obligations for payment of money that is secured by a mortgage, deed of trust, or other lien on Florida real property.

The following rule sections have been rendered obsolete and are proposed to be repealed:

- 12C-2.002 Property Subject to Tax – Annual and Nonrecurring
- 12C-2.003 Exemptions
- 12C-2.006 Taxable Situs – Reporting Requirements – Who Shall File a Return
- 12C-2.0061 Transfer of Intangible Personal Property to Certain Out-of-State Entities
- 12C-2.0062 Management or Control
- 12C-2.0063 Intangible Personal Property Held in Trust
- 12C-2.008 Information Reports
- 12C-2.0105 Tax Credits

The proposed amendments to the following rule sections provide for the continued administration of the one mil tax imposed on government leasehold estates and the nonrecurring two mil tax imposed on notes, bonds, and other obligations for payment of money secured by Florida real property:

- 12C-2.001 Definitions
- 12C-2.004 Property Subject to Tax
- 12C-2.005 Reporting Requirements – Due Date – Payment of Tax – Discounts Allowed
- 12C-2.007 Penalties and Interest
- 12C-2.010 Valuations
- 12C-2.011 Administration
- 12C-2.0115 Public Use Forms
- 12C-2.012 Refunds

These rule sections: (1) retain the definitions for just value and other synonymous terms; (2) provide for the imposition of the one mil tax imposed on government leasehold estates and the two mil nonrecurring tax imposed on value of notes, bonds, and other obligations for payment of money that is secured by a mortgage, deed of trust, or other lien on Florida real property;

(3) provide for the valuation of leases of governmental property subject to tax and for the valuation of property subject to the nonrecurring tax; (3) provide for the requirements for the administration of the taxes, including the due dates, discounts allowed, the methods of payment, and the imposition of penalties and interest; (4) provide for the administration of refunds for the overpayment of the tax; and (5) remove obsolete forms no longer used by the Department and adopt revisions to forms that continue to be used for reporting the government leasehold tax.

SUBJECT AREA TO BE ADDRESSED: The subject area of the workshop is the proposed changes to Rule Chapter 12C-2, F.A.C. (Intangible Personal Property Tax), which provides for the continued administration of the one mil tax imposed on government leasehold estates and the two mil nonrecurring tax imposed on notes, bonds, and other obligations for payment of money secured by Florida real property.

SPECIFIC AUTHORITY: 199.202(2), 213.06(1) FS.

LAW IMPLEMENTED: 196.199, 199.133, 199.135, 199.143, 199.145, 199.155, 199.183, 199.232, 199.292, 213.235, 213.255(2), (3), 215.26(2) FS.

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

DATE AND TIME: August 27, 2007, 10:00 a.m.

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

Pursuant to the provisions of the Americans 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: contacting Larry Green at (850)922-4830. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Joe Parramore, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4709

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

12C-2.001 Definitions.

The following terms and phrases when used in these regulations and in the interpretation thereof, shall have the meaning ascribed to them as follows:

(1) ~~“Domicile and Residence” — For the purpose of these regulations the two terms are synonymous. The terms domicile and residence describe where a person has his true, fixed and permanent home and principal establishment, and to which when absent, he has the intention of returning. The following criteria will give rise to a presumption of Florida domicile~~

~~unless refuted by competent evidence: qualifying for Homestead exemption or voting rights. Other factors which may be considered but which are not conclusive are: ownership of Florida residence, having Florida licenses, or declaration of Florida residency on Federal income tax returns. Any alien political refugee possessing a permanent visa meeting the criteria above will be considered domiciled in this state.~~

~~(2) “Foreign” — Belonging or attached to a political jurisdiction other than the State of Florida, its counties or municipalities.~~

~~(3) “Just Value, Just Valuation, Cash Value, Full Cash Value, Present Cash Value, Market Value, Actual Value and Value” These terms are synonymous. These terms mean the The price which the vendor's interest would bring if offered for sale by one who desires to sell but is not compelled to sell, and bought by one willing to buy but not compelled to buy, with both seeking to maximize their gains and neither being in a position to take advantage of the other.~~

Specific Authority 199.202, 213.06(1) FS. Law Implemented 196.199(2)(b) 199.023 FS. History—New 4-17-72, Amended 9-27-76, Formerly 12C-2.01, Amended 11-21-91,_____.

12C-2.002 Property Subject to Tax – Annual and Nonrecurring.

~~(1) The following are examples of property subject to annual taxation:~~

~~(a) Accounts Receivable — a debt which is owed by another which is not supported by a negotiable paper. For tax years beginning on or after January 1, 2001, accounts receivable arising out of normal trade or business are exempt from tax.~~

~~(b) Accrued Interest — interest that has been earned but is not yet paid and is payable. Interest which has accrued due to the passage of time, but is not due and payable is not taxable.~~

~~(c) Beneficial Interest in a Trust — one or more valuable property rights in a trust. A taxable beneficial interest in a trust is the current right to income coupled with: the right to invade the corpus of the trust; or the right to revoke the trust; or the right to appoint successor beneficiaries without limitation. A beneficial interest in a trust is taxable only to the extent the trust corpus consist of property subject to the annual tax.~~

~~(d) Charitable Unitrust — such trusts are taxable while trust corpus is held by a nonexempt trustee. For tax years beginning on or after January 1, 2001, charitable unitrusts are exempt from tax.~~

~~(e) Closely Held Stock — stock in a corporation which is held by a small number of persons and is not traded on any exchange or over the counter.~~

~~(f) Commercial Paper — includes promissory notes, short term notes issued by corporations; or bearer instruments. This does not include banker's acceptances, trade acceptances or checks.~~

(g) ~~Contract Retainage~~—that portion of the requisition for construction progress payments which was withheld pending final approval by the person having the authority to give such approval is deemed to be a valid and enforceable account receivable, after the condition creating the contract retainage has been met.

(h) ~~Cooperative Housing Association~~—shares of stock held in a cooperative housing association are taxable only if ownership of the stock and the ownership of the housing unit can be separated.

(i) ~~Custody Account~~—a custody account is taxable only if the custodian is exercising discretionary powers over the assets held in the custody account. For tax years beginning on or after January 1, 2001, custody accounts are exempt.

(j) ~~Commodity Futures or Futures Contract~~—the present right to receive at a future date a specific quantity of a given commodity for an agreed price.

(k) ~~Federal National Mortgage Association (FNMA)~~—all obligations issued by FNMA, since all class A stock owned by the U.S. government has been retired.

(l) ~~Government Leasehold Estates~~—all government-owned property is subject to the intangible personal property tax if rental payments are due as consideration for the lease.

(m) ~~Insurance Premiums.~~

1. Insurance premiums for the year that are financed are accounted receivable.

2. Due, but uncollected, premiums (those premiums that are in a grace period) are not taxed.

3. For tax years beginning on or after January 1, 2000, insurance companies are exempt from tax.

(n) ~~Leases~~—payments required to be made under lease contracts will be taxed as receivables under the following conditions:

1. Lease payments which are past due.

2. Lease contracts which transfer title to the property to the lessee by or at the end of the lease term.

3. Lease contracts which contain a bargain purchase option. An example of a bargain purchase option is the purchase of the property at a price below market value or salvage value.

4. Lease contracts that require the lessee to pay the lessor even if the property is not used by the lessee. This does not include payments due under operating leases or true leases.

(o) ~~Limited Partnership Interest~~—a taxable interest in a limited partnership for intangible tax purposes shall include an interest in a limited partnership registered with the securities and exchange commission.

(p) ~~Line of Credit~~—based on the outstanding balance on January 1 of each tax year when not evidenced by a note secured by a mortgage or other lien on Florida real property.

When secured by a lien on real property in Florida, the maximum amount allowed under the line is subject to the nonrecurring tax.

(q) ~~Loans from Shareholders~~—are receivables owned by the shareholder.

(r) ~~Margin Accounts~~

1. Receivables arising from margin accounts are taxable to the broker. For tax years beginning on or after January 1, 2001, margin account receivables are exempt from tax.

2. Stocks bought on margin are the property of the purchaser and are to be reported for taxation by the purchaser.

(s) ~~Business Trust~~—business trust organized under an indenture of trust and issuing units of undivided beneficial interest in the trust assets. [also see Money Market Funds and subsection 12C-2.003(8), F.A.C.]

(t) ~~Membership Certificates~~—membership certificates in private clubs which represent one share in a not-for-profit corporation if membership in the club and ownership of the share of stock are separable.

(u) ~~Money Market and Mutual Funds~~—Funds organized as business trusts and offering units of undivided beneficial interest. If the fund's portfolio of assets consists solely of assets which are not taxable under Chapter 199, F.S., then the units are exempt.

2. The shares of funds organized as corporations are taxed as other corporate stock.

3. Money market accounts offered by banks which are deposits of money are not taxable.

(v) ~~Note Receivable~~—an instrument which contains a promise or obligation to pay money by the maker is subject to tax.

(w) ~~Production Credit Association~~—intangibles issued by or owned by production credit associations are subject to tax. All class A stock held by U.S. Government has been retired removing the exemption provided in Title 12 Section 1138C USC.

(x) ~~Repurchase Agreements~~

1. Repurchase agreements between banks are not taxed as an intangible, but are treated as cash.

2. Repurchase agreements where securities are offered as collateral for the agreement are taxable at face value.

3. Repurchase agreements where title to the security passes to the purchaser are not subject to taxation.

(y) ~~Restricted Stock~~—may be valued at less than full just value based upon the facts and circumstances creating the restrictions.

(z) ~~Small Business Administration Loans~~—to the extent the obligation is not directly owned by the Small Business Administration. For example, loans guaranteed by the SBA are taxable, while those made directly by the SBA are exempt.

~~(aa) Stock — shares or units of incorporated or unincorporated companies, limited liability companies, business trusts, mutual funds, and money market funds.~~

~~(bb) Stock Option — the right to purchase a given number of shares of stock at or during a period of time.~~

~~(cc) Stock of an “S” Corporation — taxable as all other shares of corporate stock.~~

~~(dd) Treasury Stock — when acquired for a specific purpose is taxable to the corporation. Treasury stock acquired for no specific purpose is not taxable. For example, treasury stock which is to be retired is not taxable. Treasury stock which is acquired for use in a retirement plan is taxable.~~

~~(ee) Trust — a trust having a taxable situs in Florida is primarily taxable to the trustee. For tax years beginning on or after January 1, 2001, trustees are no longer required to file returns or pay the tax. A beneficiary, having a taxable beneficial interest, is responsible for filing a return for the taxable trust assets.~~

~~(2) The following are examples of property subject to the nonrecurring tax:~~

~~(a) Agreements or contracts for deed.~~

~~(b) Agreements not to encumber real property if the agreement attaches as a lien on the real property.~~

~~(c) Future Advances — to the extent secured by a lien on Florida real property.~~

~~(d) Line of Credit — to the extent secured by a lien on Florida real property as described in s. 199.143, F.S.~~

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.023, 199.032, 199.042, 199.052, 199.057, 199.062, 199.175, 199.103, 199.133, 199.135, 199.143, 199.145, 199.155, 199.175, 199.183, 199.185, 199.202 FS. History—New 4-17-72, Revised 12-20-73, Amended 11-17-74, Formerly 12C-2.02, Amended 11-21-91, 10-9-01, Repealed.

12C-2.003 Exemptions.

The following intangible property shall be exempt from the tax:

~~(1) Money.~~

~~(2) Property owned or issued by the United States Government or its agencies. For example:~~

~~(a) Federal Land Banks.~~

~~(b) Federal Land Bank Associations.~~

~~(c) Government National Mortgage Association (Ginnie Mae).~~

~~(d) Federal Home Loan Banks.~~

~~(e) Federal Intermediate Credit Banks.~~

~~(f) Federal Deposit Insurance Corporation.~~

~~(g) Federal Reserve Banks.~~

~~(h) Small Business Administration — loans made by the SBA are exempt to the extent of the direct participation in the loan by the SBA. Loans guaranteed by the SBA are fully taxable.~~

~~(i) Joint Stock Land Banks — only first mortgages.~~

~~(3) Credit Unions — all intangibles owned or issued by credit unions chartered under federal or Florida law, so long as the exemption for federal credit unions exists.~~

~~(4)(a) Property owned or issued by the State of Florida or any of its political subdivisions or municipalities. For example:~~

~~1. Authorities created under Chapter 159, F.S.~~

~~2. Public Health Facility Authorities created by Chapter 154, F.S.~~

~~3. Other authorities created by local governments and authorized by Florida Statutes.~~

~~(b) This exemption does not apply to a leasehold or other interest in governmental property held by nongovernmental persons.~~

~~(5) An individual beneficiary, having a present vested interest in intangible property held in a trust or an estate by a Florida trustee or personal representative, may file a return reporting his proportionate interest in the intangible property of the trust or estate and claim the exemption afforded natural persons.~~

~~(6) Property worth up to \$500, held and owned by widows, widowers, blind persons and totally and permanently disabled persons. If this exemption is claimed for county ad valorem tax purposes it shall not be used to determine the taxable value of intangible personal property under this chapter.~~

~~(7) Bonds issued by a United Nations agency.~~

~~(8) Business trust — shares or units of a business trust are exempt if the portfolio of assets contains only assets which are exempt from taxation. The net asset value of a business trust with taxable assets must be proportionately reduced if the portfolio of assets contains debt obligations of the United States Government.~~

~~(9) Accounts Receivable:~~

~~(a) For tax years beginning January 1, 2001, and thereafter, all accounts receivable arising from normal trade or business are exempt from tax.~~

~~(b) For the tax year beginning January 1, 2000, two thirds of the taxable accounts receivable arising from normal trade or business are exempt from tax.~~

~~(c) For the tax year beginning January 1, 1999, one third of the taxable accounts receivable arising from normal trade or business are exempt from tax.~~

~~(d) For the tax year beginning January 1, 1998, and all prior years, all accounts receivable are subject to tax.~~

~~(10) A charitable trust is exempt from tax. For the purpose of this exemption, a charitable trust is a trust that is paying 95 percent or more of its income to one or more organizations exempt from federal income tax under Section 501(c)(3), IRC.~~

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.183, 199.185, 213.12(2) FS. History—New 4-17-72, Revised 12-20-73, Amended 11-17-74, 4-21-75, Formerly 12C-2.03, Amended 11-21-91, 10-9-01, Repealed.

12C-2.004 Property Subject to Levy of Tax – Government Leasehold Estates ~~Annual~~ and Nonrecurring.

(1) ~~Annual Tax on Government Leasehold Estates – All leases of government-owned property are subject to tax if rental payments are due as consideration for the lease. (The tax is imposed every year.) An annual tax on the just value of intangible property having a taxable situs in Florida is levied as follows:~~

(a)1. ~~All firms, partnerships, joint ventures, associations, corporations, estates, trusts, trustees, personal representatives, receivers, guardians, custodians and other fiduciaries are subject to the full tax rate of \$1.00 per thousand dollars (1 mill) of just value of intangible property having a taxable situs in Florida:~~

~~2. Example: Artificial entities and fiduciaries:~~

| | |
|---|--------------|
| Stocks | 150,000.00 |
| Bonds | 125,000.00 |
| Loans to Stockholders (outstanding balances) | 50,000.00 |
| Taxable Assets | \$325,000.00 |
| Exemption | 250,000.00 |
| Tax Rate | * .001 |
| Tax Due | \$75.00 |

(b) ~~Natural persons filing an individual or joint return are subject to the tax rate of \$1.00 per thousand dollars (1 mill) of just value of intangible property in excess of \$250,000.00 (\$500,000.00 for a married couple filing a joint return):~~

~~Examples:~~

1. ~~Individual having taxable assets valued at \$300,000.00:~~

| | |
|--------------------|--------------|
| Taxable Assets | \$300,000.00 |
| Exemption | \$250,000.00 |
| Net Taxable Assets | \$50,000.00 |
| Tax Rate | * .001 |
| Tax Due | \$50.00 |

Total Tax Due \$0 (tax due is less than \$60.00)

~~2. Individual having taxable assets valued at \$430,000:~~

| | |
|--------------------|--------------|
| Taxable Assets | \$430,000.00 |
| Exemption | \$250,000.00 |
| Net Taxable Assets | \$180,000.00 |
| Tax Rate | * .001 |
| Tax Due | \$180.00 |
| Total Tax Due | \$180.00 |

3. ~~Married couple filing jointly having taxable assets valued at \$555,000.~~

| | |
|--------------------|------------------------------------|
| Taxable Assets | \$555,000.00 |
| Exemption | \$500,000.00 |
| Net Taxable Assets | \$55,000.00 |
| Tax Rate | * .001 |
| Tax Due | \$55.00 |
| Total Tax Due | \$0 (tax due is less than \$60.00) |

4. ~~Married couple filing jointly having taxable assets valued at \$760,000.00-~~

| | |
|--------------------|--------------|
| Taxable Assets | \$760,000.00 |
| Exemption | \$500,000.00 |
| Net Taxable Assets | \$260,000.00 |
| Tax Rate | * .001 |
| Tax Due | \$260.00 |
| Total Tax Due | \$260.00 |

(2) ~~Nonrecurring tax:~~

(2)(a)1. ~~A There shall be levied a nonrecurring tax is imposed at the rate of \$2.00 per thousand dollars (2 mills) of the just value of a note or other obligation for payment of money that which is secured by a mortgage, deed of trust, or other lien on Florida real property. Agreements and contracts for deeds and written agreements not to encumber or convey realty are subject to this levy.~~

(b) ~~The following are examples of property subject to the nonrecurring tax:~~

~~1. Agreements or contracts for deed.~~

~~2. Agreements not to encumber real property if the agreement attaches as a lien on the real property.~~

~~3. Future Advances – to the extent secured by a lien on Florida real property.~~

~~4. Line of Credit – to the extent secured by a lien on Florida real property, as described in Section 199.143, F.S.~~

(c)2- ~~Example: Note and mortgage given to secure loan with a principal amount of \$1,000,000.~~

~~Tax computation:~~

| | |
|-----------|----------------|
| Principal | \$1,000,000.00 |
| Tax rate | x .002 |
| Tax due | \$2,000.00 |
| Tax due | \$2,000.00 |

(3)(a)(b)1. ~~Where a note, bond or other obligation for the payment of money is secured by realty located both inside and outside in and out of the state and by personal property located both inside and outside in and out of the state, the nonrecurring tax is required to shall be apportioned based on each type of property's relative percentage of the principal amount of debt at the time the obligation is created.~~

(b)2-a. ~~Example: Note and mortgage given to secure a loan of \$1,000,000. The mortgage includes real property realty located in and out of Florida as well as personal property personalty located in and out of Florida. The lender is a Florida Business:~~

| Security | Value | Percentage | Tax |
|---|--------------|------------|-------------|
| Value of Florida <u>Real Property Realty</u> | \$250,000.00 | 25% | \$500.00(*) |
| Value of NonFlorida <u>Real Property Realty</u> | 250,000.00 | 25% | -0- |
| Total Value of All <u>Real Property Realty</u> | 500,000.00 | 50% | N/A |

| | | | |
|------------------------------|----------------|------|--------------|
| Value of Florida Personal | | | |
| Property Personalty | 250,000.00 | 25% | \$375.00(**) |
| Value of NonFlorida | | | |
| Personal Property Personalty | 250,000.00 | 25% | \$375.00(**) |
| Total Value of All Personal | | | |
| Property Personalty | 500,000.00 | 50% | \$750.00(**) |
| Total Collateral | \$1,000,000.00 | 100% | |

(*) Nonrecurring 2 mill tax

(**) There is no tax on personal property. Annual tax on outstanding balance January 1 of tax year.

b. Example:

~~Note and mortgage given to secure a loan of \$1,000,000. The mortgage includes realty located in and out of Florida as well as personalty located in and out of Florida. Assume the lender does not have a taxable situs within Florida.~~

| Security | Value | Percentage | Tax |
|---------------------------|----------------|------------|----------|
| Value of Florida Realty | \$250,000.00 | 25% | \$500.00 |
| Value of Non Florida | | | |
| Realty | 250,000.00 | 25% | 0 |
| Total Value of All Realty | 500,000.00 | 50% | N/A |
| Value of Florida | | | |
| Personalty | 250,000.00 | 25% | 0 |
| Value of NonFlorida | | | |
| Personalty | 250,000.00 | 25% | 0 |
| Total Value of All | | | |
| Personalty- | 500,000.00 | 50% | N/A |
| Total Collateral | \$1,000,000.00 | 100% | |

~~(c)1.a. Notes and mortgages securing future advances or lines of credit are taxable at the time each advance is made whether or not a note is recorded and tax is due only on the amount of the advance.~~

~~b. Example: A mortgage on Florida real estate provides for future advances up to a total of \$1,000,000. A future advance is made for \$500,000. Nonrecurring tax in the amount of \$1,000 (\$500,000 x .002 = \$1,000) is due.~~

~~2.a. A line of credit secured by the equity in a borrower's home is subject to nonrecurring tax on the maximum amount of the line. Subsequent borrowings under the line are not subject to nonrecurring tax.~~

~~b. Example: A borrower establishes a \$50,000 line of credit with a bank and secures the line with a mortgage on the equity in his home. The borrower initially draws the full line of \$50,000 and pays nonrecurring tax on this maximum amount. The borrower later repays \$30,000 of the initial amount borrowed and then draws another \$15,000. The \$15,000 draw of funds under the line is not subject to nonrecurring tax, since the nonrecurring tax was already paid on \$50,000, the maximum credit limit under the line.~~

~~(3)(a)(d)1. Where the value of real property estate pledged to secure an obligation is less than the balance of the obligation, then the annual tax is applicable to that amount of the obligation exceeding the value of the real estate if the lender has a taxable situs in the state. The amount of the obligation secured by the value of Florida real property estate is subject to the nonrecurring tax.~~

(b)2. Example:

| | |
|---|----------------------|
| Principal Amount of Loan | \$1,000,000.00 |
| Less Value of Florida Real <u>Property Estate</u> | <u>500,000.00</u> |
| <u>Amount</u> (subject to nonrecurring tax) | <u>\$ 500,000.00</u> |
| <u>Amount Not Secured by Real Estate</u> | |
| <u>subject to annual tax)</u> | <u>\$500,000.00</u> |

Specific Authority 199.202, 213.06(1) FS. Law Implemented 196.199(2)(b), 499.032, 199.133, 199.135, 199.143, 199.145, 199.155, 199.183, 199.185 FS., s. 1, Ch. 2001-885, L.O.F. History—New 4-17-72, Revised 12-20-73, Amended 5-8-79, Formerly 12C-2.04, Amended 11-21-91, 5-18-93, 10-9-01, _____.

12C-2.005 Reporting Requirements – Due Date – Payment of Tax – Discounts Allowed.

(1)(a)1. Governmental Leasehold Annual Tax –

(a)1.a. Every person, regardless of domicile, who leases property from a governmental entity in this state, is required to file a return with the Department. All intangible personal property subject to tax is required to shall be assessed at its just value as of January 1 of each year. The tax is to be reported on a Governmental Leasehold Intangible Personal Property Tax Return (Form DR-601G, incorporated by reference in Rule 12C-2.0115, F.A.C.). The return and the tax are shall be due June 30 and shall be paid on or before June 30 of each the year it is due to be paid.

2.b. A No return, accompanied with tax due, for the current tax year, that is postmarked or delivered to received by the Department on or before department shall be considered delinquent if it bears a postmark date of June 30 of the tax year will be considered timely filed or earlier. A return that bears a postmark, or is delivered to the Department, after June 30 of the tax year is delinquent.

e. When June 30 falls on a Saturday, Sunday, or legal state or federal holiday, returns postmarked or delivered to the Department department on the next succeeding workday will be deemed to have been filed timely. For purposes of this rule, a legal holiday means a holiday that is observed by federal or state agencies as a legal holiday as this term is defined in Chapter 683, F.S., and s. 7503 of the Internal Revenue Code of 1986, as amended. A "legal holiday" pursuant to s. 7503 of the Internal Revenue Code of 1986, as amended, means a legal holiday in the District of Columbia or a statewide legal holiday at a location outside the District of Columbia but within an internal revenue district.

d. The full amount of the tax shown on a return must accompany the return at the time it is filed.

2.e. The following discounts may be claimed Annual taxes paid during the following periods shall be entitled to a discount for early payment when the return and payment are postmarked or delivered to the Department on or before the last day of the month of the following periods:

- a.(F) 4% during January and February;
- b.(H) 3% during March;

- c.~~(H)~~ 2% during April;
- d.~~(V)~~ 1% during May;
- e.~~(V)~~ No discount during for taxes paid in June.

3.2. The postmark date will determine the date of payment for payments mailed to the department. If no postmark is available, ~~then~~ the date indicated by the taxpayer on the return signature line or the date of delivery to the Department ~~department~~ will be the date of payment.

(b)1. ~~When the tax due, before discount is less than \$60, no return is required to be filed and no tax is due. Taxpayers who receive a Government Leasehold Intangible Personal Property Tax Return from the Department for which no tax is due may file the return, without payment, to inform the Department that no tax is due. Filing this informational return will eliminate additional inquiries from the Department regarding the filing of the return. Taxpayers who are under audit, examination, or investigation by the Department will be required to file a completed return, even the amount of tax due with the return is less than sixty dollars (\$60). No person subject to the annual tax shall be required to file a return or pay a tax if the tax due, before discount, is less than sixty dollars (\$60.00).~~

2. ~~The annual return filing requirement will be satisfied by a corporation filing an annual report with the Department of State which indicates whether the corporation has a liability for the intangible tax. Corporations not required to file an annual report with the Department of State must file an intangible tax return even though no tax is due.~~

(2) Nonrecurring Tax –

(a) The nonrecurring 2 mill tax on notes, bonds and other obligations for the payment of money which are secured by mortgage, deed of trust or other lien on Florida real property is ~~shall be~~ due and payable at the time the instrument is presented for recordation.

(b) If there is no written instrument, or if the written instrument is not presented for recordation, the nonrecurring tax of 2 mills is ~~shall be~~ due and payable within 30 days following the creation of the obligation.

(c) If a mortgage, deed of trust, or other instrument evidencing a lien subject to the nonrecurring tax secures a revolving line of credit, a line of credit, or future advances, the tax is due, shall be paid as provided in paragraphs (a) and (b) ~~of this subsection~~ on the initial debt or obligation, excluding future advances. Thereafter, each time a future advance is made under a future advance mortgage additional nonrecurring tax is due shall be paid.

(3) Extension of Time ~~time~~ for Filing ~~filing~~ Government Leasehold Tax Return ~~annual tax.~~

(a)1. The Department will ~~department shall~~ grant an extension of time of 3 months for filing a return or reporting ~~report~~ and paying the tax when it is determined there is

reasonable cause for granting the extension. Reasonable cause for the purpose of administering these provisions shall be deemed to be one of the following:

a. Having been granted an extension of time to file federal income taxes. A copy of the extension from the Internal Revenue Service ~~IRS~~ must accompany the request for extension of time; or

b. A tax payment of 100% of last year's intangible tax or 90% of the current year's tax accompanies the request for extension; or

c. The records necessary to complete the return are not available due to fire, illness or death of the person having the knowledge to complete the return; or

d. Reasonable cause is established under the provisions of Rule 12-13.007, F.A.C.

2. All requests for extensions of time, for filing returns or reporting ~~reports~~ and paying the tax, must be filed with the Department on a Governmental Leasehold Intangible Personal Property Tax Application for Extension of Time to File Return (Form DR-602G, incorporated by reference in rule 12C-2.0115, F.A.C.) ~~made in writing and must be received by the Department on or before June 30 of the tax year~~ ~~department~~ ~~prior to the due date. Request for extension of time to file an intangible tax return is to be made on form DR-602 (Intangible Tax Application for Extension of Time to File Return, incorporated by reference in Rule 12C-2.0115, F.A.C.).~~ The Department will notify inform ~~inform~~ taxpayers only if the request is of requests that are denied.

2.3. The extension of time covers the period July 1 through September 30. No penalty will be assessed if the return is filed and the tax due is paid on or before September 30 of the tax year. All taxes paid after June 30 of the tax year ~~with an extension of time~~ are subject to interest as, provided prescribed in Rule 12C-2.007, F.A.C. Interest will be assessed on tax paid after June 30, including those taxes for which an extension of time to file and pay has been granted.

(b) Examples:

1. A taxpayer requested and was granted an extension of time to file a an intangible tax return and paid the tax due with the return. The extension was granted through September 30 of the tax year. On September 30 of the tax year, intangible tax in the amount of \$100 is paid. No penalties are due because of the approved extension of time to file. However, interest in the amount of \$3.00 is due. (See Rule 12C-2.007, F.A.C.)

| | |
|-----------------------|--------------|
| Tax Due With Return | \$100 |
| Penalties | 0 |
| Interest | <u>3</u> |
| Total Due With Return | <u>\$103</u> |
| Interest | 3 |
| Total Due With Return | \$103 |

2. A taxpayer is granted an extension of time to file a an intangible tax return and pay the tax due with the return. The extension was granted through September 30 of the tax year. On October 1 of the tax year a return is filed and the intangible tax is paid. On October 1, this date the extension of time to file is void. The taxpayer is liable for all penalties and interest from June 30 of the tax year date until the date paid. (See Rule 12C-2.007, F.A.C.)

| | |
|---|-------|
| Tax Due With Return | \$100 |
| Penalties: Delinquency (40%) | |
| Late Filing (40%) | |
| [Maximum delinquency and late filing Penalty (40%)] | 40 |
| Interest | 3 |
| Total Due With Return | \$143 |
| Interest | 3 |
| Total Due With Return | \$143 |

Specific Authority 199.202, 213.06(1) FS. Law Implemented 196.199(2)(b), 199.042, 199.052, 199.135, 199.202, 607.1622 FS. History—New 4-17-72, Revised 12-20-73, Amended 11-17-74, Formerly 12C-2.05, Amended 11-21-91, 10-9-01, 5-4-03,_____.

12C-2.006 Taxable Situs – Reporting Requirements – Who Shall File a Return.

(1) Every person who is a legal resident of this state, or any person, regardless of domicile who has management or control of intangible personal property that has acquired a taxable situs in this state, shall file a return with the Department on or before June 30, except as provided in paragraph 12C-2.005(1)(b) and subsection (3), F.A.C.

(b)1. Individuals, married couples filing jointly, and guardians filing on behalf of their ward shall file on form DR-60H, Intangible Personal Property Tax Return (incorporated by reference in Rule 12C-2.0115, F.A.C.).

2. Corporations, partnerships, affiliated groups, and fiduciaries shall file on form DR-60HC, Intangible Personal Property Tax Return for Corporation, Partnership, and Fiduciary Filers (incorporated by reference in Rule 12C-2.0115, F.A.C.).

3. A group of corporations, Subchapter S corporations, or limited liability companies may choose to file as an affiliated group if they meet the following criteria:

a. An affiliated group has a common parent that directly owns at least 80% of all classes of stock or membership interest in a limited liability company and at least 80% of each class of nonvoting stock or membership interest in a limited liability company of one or more of the corporations or limited liability companies in the group. As used here, the term nonvoting stock or membership interest does not include stock or membership interests in a limited liability company that is limited and preferred as to dividends.

b. The affiliated group may be connected through a chain of ownership from the parent to the subsidiaries or from the parent to subsidiary to the subsidiary's subsidiary.

e. The election to file as an affiliated group must be made each year. A notice of the election must be filed with the Department on or before June 30 of the tax year. The election and notice is made by selecting the affiliated group filing status on form DR-601C. Failure to file the notice of the election shall bar the filing of a consolidated return except as provided in this rule. An affiliated group which does not intend to file a consolidated return shall indicate its intent by filing separate returns for each entity subject to the intangible tax.

d. An affiliated group which has failed to file any returns for one year may choose to file a consolidated intangible tax return for one delinquent year provided the group has filed consolidated returns for the three immediate prior years. If timely returns were filed by members of the group, the group may not file a consolidated return after the due date for filing a consolidated return.

e. The parent entity files a consolidated return. This parent entity does not have to have a taxable situs in Florida. All subsidiaries that meet the ownership rule must be included in the consolidated group. Subsidiary entities that are foreign to the United States must be included in the consolidated group if the ownership test is met. When a consolidated return is filed, all accounts receivable between the entity's that are part of the consolidated group return are to be eliminated. Also, the parent entities investments in subsidiaries that are included as part of the consolidated group are to be eliminated. Accounts receivable and the parent entity's investments in subsidiaries that are not part of the consolidated group remain as items subject to the intangible tax. The capital investment of the parent entity, owned by a member of the consolidated group, is not eliminated from taxation.

f. An affiliated group filing a consolidated return must include the following with the intangible tax return:

(I) A consolidated balance sheet for the group identifying the taxable items and the eliminated items

(II) A separate balance sheet for each entity included in the consolidated group.

(III) A list identifying the parent entity's name, Employer Identification Number, state of charter and charter number, and mailing address (including city, state and zip code) and the name, Employer Identification Number, state of charter and charter number, and mailing address (including city, state and zip code) for each entity included in the consolidated return.

4. Governmental Leasehold Estates are to be reported on form DR-601G, Governmental Leasehold Intangible Personal Property Tax Return for Individual and Joint Filers (incorporated by reference in Rule 12C-2.0115, F.A.C.).

(2) A person will be required to file completed returns even though that person may owe less than sixty dollars (\$60.00) tax, if that person is under audit, examination, or investigation by the Department.

(3) Trustees

(a) For tax years beginning after December 31, 2000, trustees are no longer required to file intangible tax returns or pay a tax.

(b) For tax year 2000 and previous tax years, the taxable situs of a trust shall be in Florida if the trustee's usual place of business where the books and records pertaining to the trust are kept is in Florida or, if the trustee has no principal place of business, then taxable situs shall be determined as follows:

1. If a Florida resident is sole trustee of a foreign trust, the trust is deemed to have a taxable situs in Florida and the corpus is subject to tax.

2. If there is more than one trustee, and all are Florida residents, only one return is to be filed.

3. When trustees are both residents and nonresidents and management and control of the trust is with the Florida trustee, then a return for the trust is to be filed by the Florida trustee.

4. When trustees are both residents and nonresidents, and management or control is with an out of state trustee, then no return is necessary by the Florida trustee.

5. When there are two trustees, one is a resident and one a nonresident and they share equally in management and control of the trust, the assessment of property shall be apportioned between them.

6. When there are three or more trustees, and they are residents and nonresidents and they share equally in the management and control, the trust has a taxable situs in this state if the majority of the trustees are residents of this state. In such a case, only one return is to be filed for the trust. If the majority of the trustees are nonresidents, the trust does not have a taxable situs in this state and no return is to be filed.

(4) Grantor Subject to Tax—A Florida domiciled grantor of a trust is subject to intangible tax on an item of intangible personal property held as an item of trust principal under the following circumstances:

(a) The grantor retains the right to revoke the trust in whole or in part.

(b) The grantor has the power to appoint or direct distribution of trust principal, other than by naming or removing beneficiaries pursuant to a limited testamentary power to add beneficiaries other than the grantor, the grantor's creditors or creditors of the grantor's estate. Example. Individual A, a Florida domiciliary, transfers \$100 to the sole trustee of the A trust under a written trust agreement. Neither the trustee nor the trust are domiciled or transact business in Florida. The trust is irrevocable, and individual C is the sole beneficiary. The trust agreement provides that A may direct the trustee to distribute any item of trust property to any person other than A or A's creditors. The trust agreement also provides

that any person may Contribute property to the trust for no consideration, such property to be subject to the terms of the trust. On the last business day of a calendar year, A transfers all the shares of stock in ABC Corporation, with a just value of \$100 million, to the trust. On the first business day of the following calendar year, A appoints and directs the trustee to distribute the ABC stock to the B trust. The B trust contains the same provisions as the A trust, except that the B trust is revocable. Even if this A trust were found to be a valid (non-illusory) trust, A would be treated as having retained ownership, management and control of the ABC stock, and would be subject to tax on the ABC stock.

(c) The grantor has the right to veto or rescind, or must approve of, the trustee's actions with respect to the item of trust principal.

(d) The grantor has the right to remove or appoint trustees, or the right to remove or appoint another person with such a right, unless the power is limited to specific conditions not within the control of the grantor or such other person.

(e) In no circumstances shall the annual tax be due more than once each year upon a particular item of intangible personal property.

(5) Personal Representatives:

(a) Personal representatives domiciled in Florida must file a return for all property in their custody if the decedent was domiciled in Florida, or the laws of the decedent's domiciliary state allow the tax situs of a decedent's estate to attach to the administrator after the letters of administration have been granted by a court.

(b) Personal representatives who are not residents of Florida, but are administering an estate of a decedent whose domicile was Florida, must file a return for the estate.

(6) Corporations: Every corporation electing to pay the tax as agent for its Florida stockholders must file a return by June 30 of the tax year, even if no tax is due with the return. If no return is filed or the return is filed after June 30, the election to pay the tax for stockholders will not be valid. Form DR 601C, Intangible Personal Property Tax Return (incorporated by reference in Rule 12C 2.0115, F.A.C.), is the form to be used when filing and paying the tax as agent for shareholders.

(7) Taxpayer Identification Number Required:

(a) Every return must list the Social Security number or Federal identification number of the property owner. An individual filer must list his or her Social Security number on the return. In the case of a joint return the Social Security numbers, if assigned, must be listed for both husband and wife. The husband's Social Security number is to be listed first on a joint return. Corporations, partnerships and fiduciaries are to list the employer identification number assigned by the Internal Revenue Service on the return.

(b) A fiduciary filing for more than one account must separately identify each account by the assigned taxpayer identification number.

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.052, 199.057, 199.062, 199.175, 199.202 FS. History—New 4-17-72, Revised 12-20-73, Amended 11-17-74, 9-27-76, 9-6-77, Formerly 12C-2.06, Amended 11-21-91, 1-5-94, 6-2-98, 10-9-01, 5-4-03, Repealed.

12C-2.0061 Transfer of Intangible Personal Property to Certain Out-of-State Entities.

~~(1) This rule delineates certain circumstances in which intangible personal property would not have taxable situs in Florida. This rule is intended to provide taxpayers with criteria under which intangible personal property may not be taxable. Failure to meet one or more of the following criteria does not create any presumption with respect to taxable situs or taxation of intangible personal property and means only that the taxpayer does not come within the guidelines of this rule. Taxable situs and taxability of intangible personal property held by taxpayers who fail to meet the following criteria will be judged upon the facts and circumstances applicable to the taxpayer. This rule does not provide the basis upon which an assessment can be made or sustained. If an item of intangible personal property, which would otherwise be subject to the annual tax, is transferred to a corporation or partnership organized under the laws of another state and domiciled in another state, the item does not have taxable situs if each of the following criteria are met, both for the corporation or partnership and any general partner.~~

~~(2) The laws of each applicable jurisdiction, including those governing formation and operation, have been complied with.~~

~~(3) The transfer is complete before January 1 of the tax year.~~

~~(a) Transfer means conveyance of legal title to and all ownership of, including all rights to control and manage in Florida, the item of intangible personal property.~~

~~(b) Voluntary transfer of the item back to the transferor, or to any other person domiciled in Florida, after January 1 does not, by itself, cause the item to have taxable situs in Florida for that tax year.~~

~~(4) Neither the transferor, nor any person domiciled in Florida, owns the item or may exercise management or control of the item in Florida. All management and control of the item occurs outside of Florida, including communications and correspondence concerning the item.~~

~~(a) Officers, employees, and other agents of the transferee exercised management and control outside of Florida. They must perform functions consistent with the responsibility for management and control of the item outside of Florida.~~

~~(b) Presence or residence of a shareholder, partner, board member, officer, employee, agent, or representative, in Florida does not, by itself, cause an item of intangible personal property owned by the corporation or partnership to have taxable situs in Florida.~~

~~If, however, the shareholder, partner, board member, officer, employee, agent, or representative may exercise management or control with respect to that item while in Florida, other than a shareholder or limited partner acting solely in its capacity as shareholder or limited partner respectively, then that item does not come within the guidelines of this section.~~

~~(5) The transferee is not legally or commercially domiciled in Florida.~~

~~(6) The transferee is not transacting business in Florida.~~

~~Example—Corporation X transacts business in Florida. It sells an item of tangible personal property on credit to a natural person, John Smith, in Florida. John Smith is a Florida resident. As a result of the transaction, Corporation X has an account receivable from Smith. ABC is a partnership that is not related to Corporation X, that is not domiciled in Florida, and that does not transact any business in Florida. On December 1, 1997, in a transaction that occurs outside of Florida, Corporation X sells the receivable to ABC for its fair market value, and retains no interest in or obligation with respect to the receivable; however, Corporation X does retain an option to purchase the receivable should ABC offer it for sale. No further transactions occur during 1997. No person domiciled or transacting business in Florida owned, managed, or controlled the receivable when it was owned by ABC. In a transaction that occurs outside of Florida after January 1, 1998, ABC sells the receivable back to Corporation X for its fair market value, and retains no interest in or obligation with respect to the receivable. On January 1, 1998, the receivable did not have taxable situs in Florida.~~

~~(7) Terms and conditions of the transfer are those of an arm's length transaction. Sale of an item of intangible personal property in exchange for its fair market value is one indication, though not conclusive, that the terms and conditions of the sale are those of an arm's length transaction.~~

~~(8) Books and records must be kept and maintained by the transferee outside Florida.~~

~~(9) Books and records and financial statements of the transferor, the transferee, and any involved agent (e.g., broker) must show entries consistent with ownership, management and control by the transferee outside of Florida.~~

~~(10) Reporting and payment requirements, under applicable federal or state laws, that are associated with the sale or other transfer of the item of intangible personal property, must have been complied with consistent with ownership, management and control outside of Florida.~~

~~(11) Documentary evidence must be maintained that establishes that legal transfer was completed to the transferee corporation or partnership before January 1 of the tax year, that management and control existed and was exercised outside of Florida, and that the transfer meets each of the above requirements. Examples of documents and items that may contain evidence establishing a legal transfer include the following and any modifications thereto. The absence of one~~

or more of the following documents and items does not mean that a taxpayer cannot otherwise establish that the taxpayer meets the criteria of this rule.

(a) Organizational documents filed with appropriate state officials.

(b) Formally and properly adopted by laws, minutes and resolutions of meetings.

(c) The principal place of business of the transferee, where the business of the transferee is actually carried on, is held out to be and is in fact maintained outside of Florida.

(d) Receipts for transportation, meals and lodging.

(e) In the case of a security, notification to issuers and stock brokerage firms of change of ownership.

(f) In the case of an account receivable, notification to the obligor of change of ownership, management, and control.

(g) Officers and any other employees and/or other agents of the transferee receive compensation consistent with the responsibility for management and control of the assets.

(h) Maintenance by the transferee of an account with a bank or other financial institution in a state, other than Florida, where it maintains its principal place of business.

(i) Tax returns and proof of payment for federal tax and taxes of all applicable states.

(j) Any and all forms and records and fees required to be filed, kept or paid by federal law or the law of any relevant state.

(k) Contemporaneous written explanations of how transactions were effectuated, and why they are considered to be at "arms length."

(l) Contracts, sales agreements, invoices, and other instruments relevant to transactions.

(m) Evidence of consideration exchanged in the transfer of the item of intangible personal property and in other transactions related to it.

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.052, 199.175 FS. History—New 6-2-98, Repealed.

12C-2.0062 Management or Control.

(1) This rule provides guidance on management and control for purposes of Rules 12C-2.0061 and 12C-2.0063, F.A.C., which describe certain circumstances in which an item of intangible personal property would not have taxable situs. This rule is also intended to provide taxpayers with separate criteria under which management or control would not exist with regard to intangible personal property. Taxable situs and taxability of intangible personal property held by taxpayers whose circumstances do not fall within the following provisions concerning management and control will be judged upon the facts and circumstances applicable to the taxpayer. This rule does not provide the basis upon which an assessment can be made or sustained.

(2) Control is power, authority, or right to exercise influence over an item of intangible personal property. Management is indicated by organizing, effecting or implementing control.

(a) The terms control or manage do not include any ministerial function or any processing activity. A ministerial function is an act the performance of which does not involve the exercise of discretion or judgment. A processing activity is an activity undertaken to administer or service intangible personal property in accordance with such terms, guidelines, criteria or directions as are provided solely by the owner of the property. Methods, systems, or techniques chosen by the processor to implement such terms, guidelines, criteria or directions are not considered the exercise of management or control.

(b) Except as provided in sub-paragraph (2)(a) of this rule, management or control of an item of intangible personal property includes the possession or exercise, in whole or in part, of the right to:

1. Transfer or otherwise dispose of the item, including by selling, conveying, encumbering, assigning, delegating, alienating, or abandoning; or

2. Compromise, release, relinquish, or waive any right or claim with respect to the item.

(3) If a person exercises control or management of intangible personal property, that person will be considered to control or manage the property regardless of any written or oral agreements to the contrary. An isolated act by an employee, representative or agent without authority, does not by itself constitute management or control.

(4) Management or control of an item of intangible personal property does not include a shareholder or limited partner acting solely in its capacity as shareholder or a limited partner of a corporation or limited partnership, respectively, that owns the item. Where an employee in the course of their employment exercises management or control over intangible personal property, the acts of the employee shall be attributed solely to the employer as if the employer has performed the acts.

(5) Servicing agreements. A servicing agreement, whereby the servicing agent performs ministerial functions or processing activities regarding intangible personal property, does not confer management or control over the intangible personal property on the servicing agent.

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.052, 199.175 FS. History—New 6-2-98, Repealed.

12C-2.0063 Intangible Personal Property Held in Trusts.

(1) This rule delineates certain circumstances in which intangible personal property would not have taxable situs in Florida. Failure to meet one or more of the following criteria does not create any presumption with respect to taxable situs. An item of intangible personal property, otherwise subject to

tax, that is transferred to and held in a valid trust does not have taxable situs in Florida when each of the following criteria are met.

(2) The trust must be formed and operate pursuant to a fully executed and acknowledged written trust agreement, and the trust must be valid under the laws of the state in which it was created and laws governing the trust.

(a) The transfer of intangible personal property to the trust must be valid and complete prior to January 1 of the tax year. Transfer means the conveyance of legal title to and all ownership of, including all rights to control and manage, the item of intangible personal property.

(b) The transfer of intangible personal property to a trust which would be deemed illusory under applicable laws is not a valid transfer for purposes of the intangible tax.

(3) The trustees must have been granted full fiduciary powers by the terms of the written trust agreement.

(4) The grantor is not a Florida domiciliary or must not have any right or privilege reserved to or granted for himself, with respect to any right of ownership, management or control of the trust or any item of trust principal.

(5) The trust beneficiary is not a Florida domiciliary or has no rights other than to receive distributions of income or distributions from trust principal at the discretion of the trustees.

(6) If the trust includes any of the following powers, an item of intangible personal property constituting trust principal is not within the guidelines of this rule that describe certain, but not all, circumstances in which items of intangible personal property would not have taxable situs in Florida:

(a) The grantor retains the right to:

1. Revoke the trust, or
2. Appoint assets out of the trust corpus, or
3. Name and/or remove beneficiaries (except pursuant to a limited testamentary power to add beneficiaries other than the grantor, the grantor's creditors or creditors of the grantor's estate);

(b) The grantor or any other Florida domiciliary has the right to remove the trustee, unless the power is limited to specific conditions not within the control of the grantor or such other person.

(7) A trust provision that requires the reversion of assets back to the grantor does not, in and of itself, make the property subject to tax unless the provision directs the form or type of assets that must be returned to the grantor. A grantor may include any person contributing assets to the trust. Example. Individual A transfers \$100 to the sole trustee of a trust under a written trust agreement. Neither the trustee nor the trust are domiciled or transact business in Florida. The trust is irrevocable, and individual B is the sole beneficiary. B is domiciled in Florida. No powers are expressly reserved to A by the literal terms of the trust agreement. The trust agreement provides that any person may contribute property to the trust

for no consideration, such property to be subject to the terms of the trust. The trust agreement requires that the trustee distribute to B, on the first business day following January 1 of each calendar year, all trust assets contributed and any additional principal in excess of the \$100. On the last business day of a calendar year, B transfers shares of stock in ABC Corporation, with a just value of \$100 million, to the trust. B would be treated as the grantor with respect to the ABC stock for purposes of this rule. The ABC stock would not be within the guidelines of this rule, in that the ABC stock must be returned to B, the grantor.

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.052, 199.175 FS. History—New 6-2-98, Amended 10-9-01, Repealed _____.

12C-2.007 Penalties and Interest.

(1) Delinquent Penalty.

(a) Any annual or nonrecurring tax which is not paid by the due date shall accrue a delinquent penalty of 10 percent of the tax due, per month or portion of a month, will accrue on the governmental leasehold estates intangible tax and the nonrecurring intangible tax that is not paid on or before the due date. The delinquent penalty will not to exceed a maximum of 50 percent of the tax due.

(b) Example:

1. Tax Return and payment postmarked July 5th of current tax year.
2. Tax due \$100
3. Calculation of Penalty:

| | |
|---------------------------------|----------|
| Tax Due | \$100.00 |
| 1 month late (1 .10 = .10) x 10 | |
| Penalty | \$ 10.00 |

(2) Late Filing Penalty. A late filing penalty of 10 percent of the tax due, per month or portion of a month, will accrue on governmental leasehold estates intangible tax returns not filed on or before the due date. The late filing penalty will not exceed 50 percent of the tax due.

(a) Any annual tax return not filed by the due date shall be charged a specific late filing penalty for each year or portion of a year the return remains unfiled. The late filing penalty accrues at the rate of 30 percent of the tax due with the return for each year or portion of a year until paid. This penalty is in addition to any other penalty which may be due.

(b) Example:

1. Tax return and payment postmarked July 5th of current tax year.
2. Tax due \$100
3. Calculation of Penalty:

| | |
|---------------------|-------|
| Tax due | \$100 |
| Delinquency penalty | \$ 10 |
| Late filing penalty | \$ 30 |
| Tax and penalty due | \$140 |
| Tax & penalty due | \$140 |

(3) ~~The combined penalties provided in subsections (1) and (2) will not exceed 10 percent of the tax due per month, or portion of a month, and is limited to 50 percent of the tax due. Beginning with tax year 1999 and thereafter, when a tax payment is delinquent and the tax return is filed after June 30 of the tax year, the maximum for the combined penalties shall be 10 percent per month, not to exceed a maximum of 50 percent of the tax due with the return.~~

~~(4) Omitted Property Penalty.~~

~~(a) Property which is omitted from a return shall be subject to a specific penalty of 30 percent of the tax due on the omitted property and is also subject to the delinquency penalty.~~

~~(b)1. Examples:-~~

| | |
|--------------------------------|-------|
| Tax due on omitted property | \$100 |
| Delinquent penalty for 1 month | \$ 10 |
| Omitted property penalty (.30) | \$ 30 |
| Tax & penalty due | \$140 |

~~2. Same as Example 1. except omitted property was discovered during an audit 2 years after the tax was due.~~

| | |
|--------------------------------|-------|
| Tax due on omitted property | \$100 |
| Delinquent penalty for 1 month | \$ 50 |
| (50% Maximum) | \$ 30 |
| Tax & penalty due | \$180 |

~~(4)(5) Undervaluation Penalty.~~

~~(a) Governmental leasehold estate property Property which has been reported at an amount a value less than market just value is shall be subject only to a specific undervaluation penalty of 10 percent 30% of the tax due attributed to the undervaluation.~~

~~(b) Example: Property reported at a value of \$100,000. Its just value is \$200,000.~~

| | |
|---------------------------|-------|
| Tax due on undervaluation | \$100 |
| Undervaluation penalty | |
| (100 x .30) | \$30 |
| Total Tax plus penalty | \$130 |

~~(6) Penalty for Late Filing of a Security Position Statement.~~

~~(a) Security dealer/investment advisors who fail to timely file their Florida customer position statements are subject to an initial penalty of \$10 per customer position statement, plus the greater of 1% of the initial penalty or \$50 per month until the position statements are filed. The minimum penalty charged for failure to provide the customer position statements is \$100.~~

~~(b) Security dealer/investment advisors who do not hold securities on account for customers must notify the Department that they do not hold securities for customers. Failure to provide this notice on or before June 30 will subject the security dealer/investment advisor to a \$100 penalty.~~

~~(c) Position statements which are submitted in a form which is not compatible with the Department's data processing equipment or which are inaccurate are not consider filed.~~

~~(5)(7)(a) Interest accrues. All taxpayers shall pay interest at the following rate:~~

~~1. One Percent per month (prorated daily using the daily factor of .000328767) for payments due prior to January 1, 2000.~~

~~2. For payments due on or after January 1, 2000, the rate of interest established pursuant to Section 213.235, F.S., and Rule 12-3.0015, F.A.C. (prorated daily).~~

~~(b) Interest is due based on the amount of tax paid after June 30 of the tax year regardless of any extension of time granted by the Department for paying the tax or filing a return. Interest accrues on the unpaid tax beginning July 1 of the tax year and is calculated through and including the date of payment.~~

~~(8) Penalties for delinquency, late filing, undervaluation, or omission will be settled or compromised upon a showing by the taxpayer that the result was due to reasonable cause and not willful neglect as provided in Chapter 12-13, F.A.C. Interest cannot be waived unless there is doubt as to liability or collectability.~~

~~Specific Authority 199.202, 213.06(1), 213.21 FS. Law Implemented 196.199(2)(b), 199.052, 199.282, 213.235 FS. History--New 4-17-72, Revised 12-20-73, Amended 9-27-76, 4-2-78, Formerly 12C-2.07, Amended 11-21-91, 5-18-93, 4-2-00, 10-9-01, 5-4-03,_____.~~

~~12C-2.008 Information Reports.~~

~~(1) Each tax year, every corporation qualified or doing business in this state shall provide its Florida shareholders and the Department a written notification where applicable of the following:~~

~~(a) The corporation's election to pay the tax as agent for its Florida shareholders. The notice shall be filed on an Intangible Personal Property Tax Return for Corporation, Partnership, and Fiduciary Filers (form DR-601C, incorporated by reference in Rule 12C-2.0115, F.A.C.) by completing Schedule E and checking the notification box. A copy of the notice given to Florida shareholders is to be attached to the return.~~

~~(b) On or before April 1 of the tax year, corporations electing to pay the tax as agent for shareholders shall notify their Florida shareholders in writing of the election to pay the intangible tax as agent for shareholders. A representative copy of the written notice is to be attached to form DR-601C and filed with the Department.~~

~~(2)(a)1. Security brokers are required to file a position statement for each customer for whom they hold securities whose mailing address is within the state.~~

~~2. Security brokers means those broker/dealers registered with the Department of Banking and Finance, Division of Securities for the purpose of selling securities in this state.~~

~~(b)1. The position statement shall contain all the information prescribed by Section 199.062(3), F.S., and shall be filed on magnetic medium unless a hardship is shown. In~~

cases where hardships are established a paper copy of the position statement for each customer shall be sent to the department.

2. Examples of a hardship:

a. ~~The broker/dealer does not have access to computer equipment; or~~

b. ~~The broker/dealer has less than 100 customers.~~

(c) ~~A broker/dealer claiming a hardship must contact the Florida Department of Revenue, Return Reconciliation, Building F, 5050 W. Tennessee Street, Tallahassee, Florida 32399-0100.~~

(3) ~~Trustees and personal representatives shall file an information return when the beneficiary of the trust or estate reports the assets on his or her personal return. The return shall list all assets reported by the beneficiary and shall be on the form to be filed by a trustee or personal representative. Bank trust departments may satisfy the information return requirement by filing a list of trusts and the beneficiaries who have included the trust or estate assets on their personal return.~~

(4) ~~Fiduciaries shall provide the department with a copy of all inventories, accountings, or amended inventories required to be filed with the court.~~

(5)(a) ~~Personal representatives of estates shall file with the Department a copy of the Preliminary Notice and Report (form DR 301, incorporated by reference in Rule 12C 3.008, F.A.C.).~~

(b) ~~Personal representatives of estates shall file with the Department a copy of the estate inventory, or amended inventory, whether or not an inventory is required to be filed with the court. They are to be mailed to: Florida Department of Revenue, Compliance Support, 4070 Esplanade Way, Room 335 R, Tallahassee, Florida 32399-0100. The Department of Revenue shall have 30 days following the service of the estate inventory or Federal Estate Tax Return (form 706) in which to file or amend a claim for taxes owed by the decedent.~~

Specific Authority 199.202, 213.06(1) FS. Law Implemented 199.052, 199.057, 199.062, 199.185, 607.1622, 733.702 FS. History—New 4-17-72, Revised 12-20-73, Amended 4-21-75, Formerly 12C-2.08, Amended 7-31-90, 11-21-92, 1-5-94, 10-9-01, 5-4-03, Repealed _____.

12C-2.010 Valuations.

(1) Annual Tax.

(a) ~~Shares of stock of corporations regularly listed on any stock exchange or regularly traded over the counter shall be valued at their closing price on the last business day of the previous calendar year.~~

(b) ~~Shares of stock of corporations which are subject to restrictions or are letter stock shall be valued based on the facts and circumstances of each case. Taxpayers owning shares of restricted stock, wishing to establish a discount prior to filing a return, may request a letter of technical advice or a technical assistance advisement.~~

(c) ~~Shares of stock in corporations which are closely held and are not regularly traded over the counter, having no actual sales within a reasonable period of time, shall be valued using generally accepted valuation methods applied to the following valuation approaches:~~

1. ~~Capitalization of earnings or dividends;~~

2. ~~Weighted average of factors;~~

3. ~~Adjusted book value;~~

4. ~~In addition, consideration shall be given to the influence of the following factors on the marketability of the shares being valued:~~

a. ~~The nature of the business;~~

b. ~~The history of the enterprise;~~

c. ~~The economic outlook in general;~~

d. ~~The economic condition and outlook for the industry;~~

e. ~~The book value of the stock;~~

f. ~~The adjusted book value of the stock;~~

g. ~~The financial condition of the business;~~

h. ~~The earning capacity of the business;~~

i. ~~The dividend paying capacity—whether or not the company has paid a dividend;~~

j. ~~The company's value of goodwill or other intangible value;~~

k. ~~The sales of the stock;~~

l. ~~The size of the block to be valued; and~~

m. ~~The market price of stocks of corporations in the same or similar line of business.~~

(d) ~~Shares of stock of corporations subject to restrictive agreements—Where shares of stock were acquired subject to an option reserved by the issuing corporation to repurchase at a certain price, the option may represent the fair market value. If the option or buy and sell agreement, is the result of voluntary action by the stockholder and is binding during his life as well as at death, such an agreement may or may not fix the value, depending on the facts and circumstances of each case. Where the stockholder is free to dispose of his shares during his life and the option is to become effective only upon death, the fair market value is not limited to the option price.~~

(e) ~~Shares of stock have no taxable value until issued.~~

(f) ~~Treasury stock acquired by the corporation for a specific purpose is valued based upon the purpose for which it was acquired.~~

(g)1. ~~The interest of a limited partner in a limited partnership registered with the Securities and Exchange Commission is to be valued at its traded market value when traded on an exchange or over the counter.~~

2. ~~Those limited partnership interests having no current traded market value are to be valued at their acquisition cost.~~

3. ~~A taxpayer who believes his limited partnership interest has a value less than the acquisition cost may submit evidence with his return to establish a lesser value.~~

4. The interest of a limited partner in a partnership which is organized as an investment fund is valued for tax purposes based only on the assets in the portfolio which are subject to tax under Chapter 199, F.S. For example: The fund holds in its portfolio of assets U.S. Government Debt obligations (50%), State of Florida bonds (25%), Corporate bonds (15%), and other securities (10%). The taxable value of an interest in this limited partnership (fund) would be 25% of the value of the limited partnership interest (net asset value).

~~(h) Accounts receivable shall be valued at their outstanding balance as of the close of business on the last day of the previous calendar year, less a deduction of a reasonable amount for uncollectible accounts. Such deduction shall be established by actual amounts or shown by the history of uncollectible accounts. This provision shall apply even if the business is on a cash basis accounting system. Cross Reference subsection 12C 2.003(9), F.A.C.~~

~~(i) Notes not secured by realty—The fair market value of a note will be presumed to be the unpaid balance on January 1 of each year, unless it can be shown to the satisfaction of the department that the note has a value less than the unpaid balance on January 1.~~

~~(j) Business Trust—A money market or mutual fund which is organized under an agreement or indenture of trust shall be valued based upon the following guidelines to determine what portion, if any, of the net asset value of the trust will be exempt from taxation:~~

~~1. The portion of the net asset value of the trust that is attributable to direct obligations of the United States Government is exempt from taxation.~~

~~2. If the remaining portion of the net asset value of the trust, after removing the portion representing United States Government obligations, represents assets which are themselves exempt from Florida's intangible tax, then this portion of the net asset value of the trust's portfolio is also exempt from tax.~~

~~3. If the remaining portion of the net asset value of the trust, after removing the portion attributable to United States Government obligations, represents any asset which is taxable under Florida law, then the remaining portion of the net assets value of the trust is subject to tax.~~

~~(k) Bonds regularly traded on an exchange or over the counter are to be valued at their traded price. Bonds for which no traded value can be established can be valued at their face value.~~

~~(l) Taxpayers who feel that a security does not have a value equal to the published traded value at years end or whose security has no traded value may present evidence with their intangible tax return to establish a lesser value. Any value established by the taxpayer is subject to audit by the Department.~~

~~(1)(m) Leases of Governmental Property Leasehold estates and possessory interest in governmental property.~~

~~(a)1. The just value of a lease of lessee's leasehold estate or possessory interest in governmental property described in subsection 12D-3.003(3), F.A.C., is shall be determined by valuing the lease rental payments for the remaining term of the lease on January 1 of the tax year, subject to the following provisions:~~

~~1.a. The lease rental payments to be valued do shall not include any amount for taxes, interest, insurance, repairs, maintenance, exclusive franchise or concession fees, costs of utilities, or similar charges required to be paid the lessor, and shall include only the amount paid by the lessee for the use of real or tangible property provided or owned by the governmental lessor, whether designated as a fixed sum, a percentage, or a variable amount.~~

~~2.b. If lease rental payments are nominal amounts, such as \$1 or \$10 per year, or the payments are significantly less than a fair market rental for the property, the annual fair market rent which would be paid by the lessee in the open market for comparable property under similar terms and circumstances will shall be the lease rental payment to be valued.~~

~~3.e. If the lease rental payments required by the lease are based on some factor other than the passage of time, such as a percentage of sales or profits, the lease rental payment to be valued will shall be based on the average annual rent actually paid by the lessee in prior years, providing the amount so determined is not nominal or significantly less than the fair market rental for the property. The average annual rental used will shall be determined from the amounts paid by the lessee for a period not to exceed the previous five years. If the average so determined is nominal or is significantly less than fair market value for the property, the lease rental payment to be discounted will shall be the annual fair market rental for the property.~~

~~4.d. Otherwise, the analyzed lease rental payment required under the lease is shall be the amount to be valued. The valuation factors to be used shall be based on the Federal Reserve discount rate – Atlanta – on the last business day of the preceding year, plus one percent.~~

~~5.e. The period for which the lease rental payments are to be valued shall be the number of years remaining under the lease, exclusive of renewal options, as of January 1 of the tax year. The year in which the lease will expire shall be considered a full year for the purpose of this rule.~~

~~6.f. If the final period for which the lease rental payment is to be valued is less than a year, the lease rental payment shall be valued using the 1 year value factor and the tax apportioned based on the number of months during the year that the lease is in effect.~~

~~(b)2. Nothing in this paragraph exempts tangible personal property, buildings, or real property improvements owned by the lessee from ad valorem taxation. Such items are not~~

includable in the just value of the lessee's interest in leased governmental property classified as intangible property. Cross Reference – Chapter 12D-3, F.A.C.

~~(c)3-~~ The following examples illustrate the provisions of this paragraph:

~~1.a-~~ Lessee makes \$4,000.00 annual payments to lessor ~~that which~~ includes \$1,000.00 tax on a lease with 10 years remaining and the Federal Reserve discount rate – Atlanta – is 11%. The value of the lessee's interest ~~is would be~~ determined by discounting the net annual rent of \$3,000.00 for 10 years at 12%. This results in a taxable value of \$16,950.60.

~~2.b-~~ A lessee has 10 years remaining on a percentage lease with an original term of 13 years and the Federal discount rate – Atlanta – is 11%. The lessee has paid \$5,000.00 in the first previous year, \$6,000.00 in the second previous year and \$4,000.00 in the third previous year. The value of the lessee's interest would be determined by averaging the prior payments of \$5,000.00, \$6,000.00, and \$4,000.00. The lessee's interest of \$5,000.00 would be discounted for 10 years at 12% or \$28,251.00.

(2) Nonrecurring Tax.

(a) All obligations for the payment of money, evidenced by note, bond, or deed of trust secured by a written specific lien on real property located in this state are valued at an amount ~~shall have a value~~ equal to the principal amount of indebtedness at the time of execution.

(b) Agreements for deed constitute intangible property within the classification subject to the nonrecurring tax as a lien in equity on real property. The agreements for deed or contracts for deed are shall be taxable at the principal amount of indebtedness at the time the agreement is executed.

~~(3) All other forms of intangible property not specifically covered by the preceding subsections of this section shall be valued in accordance with generally accepted valuation principles.~~

Specific Authority 199.202, 213.06(1) FS. Law Implemented 196.199(2)(b), 199.023, 199.052, 199.103, 199.155 FS. History–New 4-7-72, Revised 12-0-73, Amended 9-27-76, 8-8-78, 12-31-80, Formerly 12C-2.10, Amended 11-21-91, 5-18-93, 10-9-01, _____.

12C-2.0105 Tax Credits.

~~(1) Credit for taxes paid to another state.~~

~~(a) A credit is allowed every taxpayer subject to tax, other than a natural person, against the tax imposed on intangible personal property. The credit shall be allowed for an ad valorem intangible tax paid in a state other than Florida on intangible property which is also subject to intangible tax in Florida.~~

~~(b) The credit allowed is the lesser of the intangible tax paid to the other state or the intangible tax imposed by Florida on the same property.~~

~~(c) Persons claiming this credit shall attach to their intangible tax return a schedule of property which is subject to an ad valorem tax in Florida and another state. The schedule shall contain a description of the property, its taxable value, the other state in which it is also subject to tax, the amount of tax imposed and paid to the other state and the amount of intangible tax imposed by Florida on the property.~~

~~(2) Credit allowed banks and savings associations~~

~~(a) Banks and saving associations claiming this credit are to mark the box on the intangible tax return indicating that the return is for a bank or saving association.~~

~~(b) The credit is determined by subtracting the amount of credit allowed under Section 220.68, F.S., from 33 percent of the prior years intangible tax payment. The product of this subtraction is the amount of credit allowed. If the product is zero or a negative number no credit is allowed.~~

~~(c) The credit provided by this subsection applies only to tax year 1999 and previous tax years.~~

Specific Authority 199.202(2), 213.06(1) FS. Law Implemented 199.104, 199.106 FS. History–New 5-18-93, Amended 10-9-01, Repealed _____.

12C-2.011 Administration.

(1) Nonrecurring Tax – Payments made directly to Department.

(4) Only nonrecurring tax due on obligations or advances made under instruments which have been previously recorded or which are not normally recorded or which are not normally taxed at the time of recording may be paid directly to the Department. This will include, but will not be limited to, tax payments due on an advance made under a future advance clause of a recorded mortgage on real property, advances made under a revolving line of credit secured by a recorded mortgage on real property, or the obligation created under an agreement or contract for deed.

(2) Persons paying the nonrecurring tax directly to the Department are required to file a report using department shall use the format described below to report and pay the tax:

(a)1. Include ~~Such report shall include~~ the taxpayer's name, mailing address, city and state, and the taxpayer's identification number.

2. Identify ~~To identify~~ the obligation for which tax is being paid, including the following the report shall also contain:

- a. The name of the obligor;
- b. The county in which the real property is located;
- c. The ~~the~~ official record book and page number of the recording, if any;
- d. The parcel number assigned by the county property appraiser or legal description;
- e. The amount on which tax is being paid;
- f. The date on which obligation or advance was made; and
- g. The amount of tax.

(b) ~~Taxpayers must mail these tax~~ Tax payments to ~~shall~~ be mailed to Florida Department of Revenue, 5050 West Tennessee Street, Tallahassee, Florida 32399-0100 or may be presented to a local office of the Department of Revenue.

(3) Taxpayers may apply to the ~~Department~~ department to pay the nonrecurring tax by ~~attaching~~ a list ~~attached~~ to ~~the~~ a report.

(a) ~~This No person shall use this procedure may not be used~~ without prior approval of the ~~Department~~ department.

(b) Persons wishing to apply for approval ~~should send a written request to report by list shall make requests~~ to the Florida Department of Revenue, Central Registration, P. O. Box 6480, Tallahassee, Florida 32314-6480.

(c) All persons desiring or using this procedure ~~are shall be~~ subject to audit and ~~are required to shall~~ make their records available for inspection by the ~~Department~~ department.

(d) All persons approved to use this procedure ~~are required to shall~~ keep a journal, account book or other record of original entry, showing a listing of all obligations or advances which have been made or executed. The journal ~~must include shall show~~ a daily listing, or a listing as required by the ~~Department,~~ department and ~~shall show~~ the county of recording, the official record book and page number of the recording, if any, the amount of each obligation or advance, the date the obligation was created or advance was made and the amount of tax paid, and the date on which the tax payment was made.

(e) The list ~~must shall~~ contain the same information as required by paragraph (2)(a).

(4)(a) ~~The authority to use this procedure shall not be unreasonably withheld by the department.~~

(4)(a)(b) ~~Any~~ However, any person having a history of delinquent tax payments for any tax or of returned checks ~~will shall~~ be denied the use of this procedure.

(b)(e) The authority to use this procedure ~~will may~~ be canceled by the ~~Department~~ department when any person knowingly files a false report, fails or refuses, or neglects to file the proper report or fails to maintain proper records.

Specific Authority 199.202(2), 213.06(1) FS. Law Implemented ~~199.103, 199.133, 199.135, 199.222, 199.232, 199.292~~ FS. History—New 4-17-72, Amended 9-26-77, 10-16-80, Formerly 12C-2.11, Amended 11-21-91,_____.

12C-2.0115 Public Use Forms.

(1)(a) The following public use forms and instructions are employed by the Department in its dealings with the public related to administration of the intangible tax. These forms are hereby incorporated and made a part of this rule by reference.

(b) Copies of these forms are available, without cost, by one or more of the following methods: 1) downloading the form from the Department’s Internet site at www.myflorida.com/dor/forms; or, 2) faxing a forms request to the Distribution Center at (850)922-2208; or, 3) calling the Distribution Center at (850)488-8422; or, 4) writing the Florida

Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) visiting any local Department of Revenue Service Center to personally obtain a copy. Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.

| Form Number | Title | Effective Date |
|------------------|--|----------------|
| (2) DR-601-C | 2006 Florida Intangible Personal Property Tax Return for Corporation, Partnership, and Fiduciary Filers as of January 1, 2006 (R. 01/06) | 10/06 |
| (3) DR-601CN | 2006 Instructions for Filing Form DR-601C Intangible Personal Property Tax Return for Corporation, Partnership and Fiduciary Filers (R. 01/06) | 10/06 |
| (4) DR-601CS | 2006 Schedules B, C, D, and E for use with DR-601C (R. 01/06) | 10/06 |
| (2)(5) DR-601-G | Government Leasehold Intangible Personal Property Tax Return for 2008, 2006 Tax Year (R. 01/08 01/06) | 10/06 |
| (6) DR-601-I | 2006 Florida Intangible Personal Property Tax Return for Individual and Joint Filers as of January 1, 2006 (R. 01/06) | 10/06 |
| (7) DR-601IN | 2006 Instructions for Filing Form DR-601I Intangible Personal Property Tax Return for Individual and Joint Filers (R. 01/06) | 10/06 |
| (8) DR-601IS | 2006 Schedules B, C, D, and E for use with DR-601I (R. 01/06) | 10/06 |
| (3)(9) DR-602G | Governmental Leasehold Intangible Personal Property Tax Application for Extension of Time to File Return (R. 01/07 01/05) | 06/05 |
| (4)(10) DR-35011 | Intangible Tax Self-Audit Worksheet (R 06/07 07/06) | 10/06 |
| (5)(11) DR-35012 | Taxpayer Affidavit (R. 06/01) | 05/03 |
| (12) DR-350617 | Application for Exclusion from Filing Stockbroker Position Statement (R. 01/05) | 06/05 |
| (13) DR-350618 | Stockbroker Instructions and Specifications or Reporting Information or Magnetic Media (R. 01/06) | 10/06 |
| (14) DR-350619 | Stockbroker Filing Magnetic Media Transmittal (R. 01/05) | 06/05 |
| (15) DR-350620 | Stockbroker Information Report (R. 01/05) | 06/05 |

Specific Authority 199.202(2), 213.06(1) FS. Law Implemented ~~196.199(2), 199.023, 199.032, 199.042, 199.052, 199.062, 199.103, 199.1055, 199.135, 199.232, 199.292~~ FS. History—New 11-21-91, Amended 1-5-94, 10-9-01, 5-4-03, 9-28-04, 6-28-05, 10-30-06,_____.

12C-2.012 Refunds.

(1)(a) Any person entitled to a refund of intangible personal property taxes may seek a refund by filing an Application for Refund-Intangible Personal Property Tax (Form ~~form~~ DR-26I, incorporated by reference in Rule 12-26.008, F.A.C.) with the Department. Form DR-26I must be in accordance with the timing provisions of Section 215.26(2), F.S., and must meet the requirements of Section 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C.

~~(b)1. Form DR-26I, Application for Refund-Intangible Personal Property Tax, must be filed with the Department for tax paid on or after October 1, 1994, and prior to July 1, 1999, within 5 years after the date the tax was paid.~~

~~(b)2. Form DR-26I, Application for Refund-Intangible Personal Property Tax, must be filed with the Department for tax paid on or after July 1, 1999, within three (3) years after the date the tax was paid.~~

(2)(a) An automatic refund of the amount of overpayment of tax will be granted by the Department when the Department determines upon examination that an overpayment of the tax with the return has occurred, that no additional information is required to determine the correct amount of tax due, and that the overpayment of tax is in accordance with the timing provisions of Section 215.26(2), F.S.

(b) For example, an automatic refund will be granted by the Department when an examination of the return reveals that:

1. The discount pursuant to Section 199.042(2), F.S. (2005), has been understated.

~~2. The exemption provided in Section 199.185(2), F.S., has been understated.~~

~~2.3. The payment made with a Governmental Leasehold Intangible Personal Property Tax ~~an~~ Application for Extension of Time to File Return (Form ~~form~~ DR-602, incorporated by reference in Rule 12C-2.0115, F.A.C.) exceeds the amount of tax due when the return is filed; or~~

~~3.4. A mathematical error on the return, such as the use of an incorrect tax rate or other calculation error, results in an overpayment.~~

Specific Authority 199.202, 213.06(1) FS. Law Implemented ~~196.199(2)(b), 199.042(2), 199.185(2), 199.232, 199.252, 213.255(2), (3), 215.26(2) FS. History—New 4-17-72, Formerly 12C-2.12, Amended 11-21-91, 5-4-03, 9-28-04, _____.~~

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

PUBLIC SERVICE COMMISSION

| | |
|-------------------|---|
| RULE NOS.: | RULE TITLES: |
| 25-6.065 | Interconnection of Small Photovoltaic Systems |
| 25-6.066 | Net-Metering of Customer-Owned Renewable Resources |
| 25-6.067 | Interconnection of Customer-Owned Renewable Resources |

PURPOSE AND EFFECT: To amend Rule 25-6.065, F.A.C., to encourage further development of renewable resources within the state and to develop Rules 25-6.066 and 25-6.067, F.A.C., on net-metering and expedited interconnection standards for customer-owned renewable generating resources. Undocketed.

SUBJECT AREA TO BE ADDRESSED: The rules will address issues associated with expedited interconnection with host utilities by customer-owned renewable generating resources and net-metering of those systems.

SPECIFIC AUTHORITY: 350.127(2), 366.051 FS.

LAW IMPLEMENTED: 366.04(2)(c), (5), (6), 366.041, 366.05(1), 366.81, 366.91 FS.

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

DATE AND TIME: Thursday, August 30, 2007, 9:30 a.m.

PLACE: Betty Easley Conference Center, Room 148, 4075 Esplanade Way, Tallahassee, FL

Pursuant to the provisions of the Americans 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: Office of Commission Clerk, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6770. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mark Futrell, Division of Economic Regulation, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6692, e-mail address: mfutrell@psc.state.fl.us

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

DEPARTMENT OF CORRECTIONS

| | |
|------------------|---|
| RULE NO.: | RULE TITLE: |
| 33-601.314 | Rules of Prohibited Conduct and Penalties for Infractions |

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to subdivide and revise disciplinary charges for clarity and tracking purposes.

SUBJECT AREA TO BE ADDRESSED: Inmate discipline – penalties for misconduct.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.14, 944.279, 944.28 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-601.314 Rules of Prohibited Conduct and Penalties for Infractions.

The following table shows established maximum penalties for the indicated offenses. As used in the table, “DC” means the maximum number of days of disciplinary confinement that may be imposed and “GT” means the maximum number of days of gain time that may be taken. Any portion of either penalty may be applied.

Maximum Disciplinary Actions

| SECTION 1 – ASSAULT, BATTERY, THREATS, AND DISRESPECT | | |
|---|--|---------------------------|
| 1-1 | Assault or battery or attempted assault or battery, with a deadly weapon | 60 DC + All GT |
| 1-2 | Other assault or battery or attempted assault or battery | 60 DC + 180 GT |
| 1-11-3 | No change. | No change |
| 1-21-4 | No change. | No change |
| 1-31-5 | No change. | No change |
| 1-41-6 | No change. | No change |
| 1-5 | <u>Aggravated battery or attempted aggravated battery on a correctional officer</u> | <u>60 DC + All GT</u> |
| 1-6 | <u>Aggravated battery or attempted aggravated battery on staff other than correctional officer</u> | <u>60 DC + All GT</u> |
| 1-7 | <u>Aggravated battery or attempted aggravated battery on someone other than staff or inmates (vendor, etc.)</u> | <u>60 DC + All GT</u> |
| 1-8 | <u>Aggravated battery or attempted aggravated battery on an inmate</u> | <u>60 DC + All GT</u> |
| 1-9 | <u>Aggravated assault or attempted aggravated assault on a correctional officer</u> | <u>60 DC + All GT</u> |
| 1-10 | <u>Aggravated assault or attempted aggravated assault on staff other than correctional officer</u> | <u>60 DC + All GT</u> |
| 1-11 | <u>Aggravated assault or attempted aggravated assault on someone other than staff or inmates (vendor, etc.)</u> | <u>60 DC + All GT</u> |
| 1-12 | <u>Aggravated assault or attempted aggravated assault on an inmate</u> | <u>60 DC + All GT</u> |
| 1-13 | <u>Battery or attempted battery on a correctional officer</u> | <u>60 DC + All GT</u> |
| 1-14 | <u>Battery or attempted battery on staff other than correctional officer</u> | <u>60 DC + All GT</u> |
| 1-15 | <u>Battery or attempted battery on someone other than staff or inmates (vendor, etc.)</u> | <u>60 DC + All GT</u> |
| 1-16 | <u>Battery or attempted battery on an inmate</u> | <u>60 DC + All GT</u> |
| 1-17 | <u>Assault or attempted assault on a correctional officer</u> | <u>60 DC + 180 GT</u> |
| 1-18 | <u>Assault or attempted assault on staff other than correctional officer</u> | <u>60 DC + 180 GT</u> |
| 1-19 | <u>Assault or attempted assault on someone other than staff or inmates (vendor, etc.)</u> | <u>60 DC + 180 GT</u> |
| 1-20 | <u>Assault or attempted assault on an inmate</u> | <u>60 DC + 180 GT</u> |
| SECTIONS 2-8 No change. | | |
| SECTION 9 – MISCELLANEOUS INFRACTIONS | | |
| 9-1 through 9-7 No change. | | |
| 9-9 | <u>Tattooing, or being tattooed, or body art to include body piercing, scarring or other non-life threatening acts.</u> | 30 DC + 60 GT |
| 9-10 through 9-29 No change. | | |
| 9-30 | <u>Self Mutilation — includes self-disfigurement such as body piercing, scarring or other non-life threatening acts. Determination of whether an act constitutes self-mutilation as opposed to a suicide attempt shall be made by health care staff.</u> | <u>30 DC + 60 GT</u> |
| 9-30 | No change. | No change. |
| 9-31 | | |
| 9-31 | No change. | No change. |
| 9-32 | | |

| | | |
|-----------------|------------|------------|
| 9-32 | No change. | No change. |
| 9-33 | | |
| 9-33 | No change. | No change. |
| 9-34 | | |
| 9-34 | No change. | No change. |
| 9-35 | | |
| 9-35 | No change. | No change. |
| 9-36 | | |

SECTIONS 10. through 11. No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.14, 944.279, 944.28 FS. History–New 3-12-84, Amended 1-10-85, Formerly 33-22.12, Amended 12-30-86, 9-7-89, 11-22-90, 6-2-94, 10-1-95, 3-24-97, 7-9-98, 8-13-98, Formerly 33-22.012, Amended 9-30-99, 6-7-00, 4-18-02, 10-10-04, 1-9-05, 4-17-05, 6-5-05, 10-27-05, 10-12-06,_____.

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.901
 RULE TITLE: Confidential Records

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to amend Form DC4-711B, Consent and Authorization for Use and Disclosure Inspection and Release of Confidential Information for compliance with Health Insurance Portability and Accountability Act (HIPAA).

SUBJECT AREA TO BE ADDRESSED: Release of confidential health information.

SPECIFIC AUTHORITY: 20.315, 944.09, 945.10, 945.25 FS.
 LAW IMPLEMENTED: 944.09, 945.10, 945.25, 947.13 FS., 42 USCS 290 ee-3, 45 CFR Parts 160, 164.

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: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

- 33-601.901 Confidential Records.
- (1) through (2) No change.
- (3) The following records or information contained in department files shall be confidential and shall be released for inspection or duplication only as authorized in this rule:

(a) Medical reports, opinions, memoranda, charts or any other medical record of an inmate or offender, including dental and medical classification reports as well as clinical drug treatment and assessment records; letters, memoranda or other documents containing opinions or reports on the description, treatment, diagnosis or prognosis of the medical or mental condition of an inmate or offender; the psychological screening

reports contained in the admission summary; the psychological and psychiatric evaluations and reports on inmates or offenders; health screening reports; Mentally Disordered Sex Offender Status Reports. Other persons may review medical records only when necessary to ensure that the inmate's or offender's overall health care needs are met, or upon a specific written authorization from the inmate or offender whose records are to be reviewed, or as provided by law. If a request for inmate or offender medical records is submitted upon consent or authorization given by the patient inmate or offender, the department's Consent and Authorization for Use and Disclosure, Inspection and Release of Confidential Information, Form DC4-711B, or a legally approved, HIPAA complaint release of protected health information form from another governmental agency shall be utilized. Form DC4-711B is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is _____ ~~2-9-06~~. Offenders under supervision, or previously under supervision, who desire information from their own records, shall be referred to the agency or office originating the report or document to obtain such information.

(b) through (11) No change.

Specific Authority 20.315, 944.09, 945.10, 945.25 FS. Law Implemented 944.09, 945.10, 945.25, 947.13 FS., 42 USCS 290 ee-3, 45 CFR Parts 160 and 164. History–New 10-8-76, Amended 6-10-85, Formerly 33-6.06, Amended 1-12-89, 7-21-91, 9-30-91, 6-2-92, 8-4-93, 6-12-96, 10-15-97, 6-29-98, Formerly 33-6.006, Amended 9-19-00, 7-8-03, 2-9-06,_____.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-2.091
 RULE TITLE: Publications Incorporated by Reference

PURPOSE AND EFFECT: The proposed amendment to the Basis of Review For Water Use Permit Applications will allow agricultural permittees to submit the required Irrigation Water Use Form for winter and spring crops to the District by September 1 of each year, rather than August 1 of each year.

SUBJECT AREA TO BE ADDRESSED: Agricultural water use permittees are required to submit the Irrigation Water Use Form for winter and spring crops by August 1 of each year.

The Irrigation Water Use Form is to include information on crop type, acreage, planting dates, season length and soil type. The proposed amendment changes the due date for the Irrigation Water Use Form to August 1 of each year.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 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: Karen A. Lloyd, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

| | |
|------------------|--------------------|
| RULE NO.: | RULE TITLE: |
| 62-348.100 | Purpose |

PURPOSE AND EFFECT: As required by HB 197 (Chapter 2007-191, Laws of Florida), which created Section 373.414(6)(e), F.S., in 2007, the Department proposes to develop a new Chapter 62-348, F.A.C. This rule will provide the mitigation criteria for mining of peat in herbaceous and historically herbaceous wetlands for the horticultural industry. The rule will only be applicable to the mining of predominantly high quality peat that will be used by the horticultural industry in products that incorporate other renewable or recyclable materials to replace or reduce the use of natural peat. The rule will not be applicable where excavation will be in the underlying sand or rock, where mining is part of a larger plan of development, or if any portion involves an Outstanding Florida Water. The mitigation requirements will allow a percentage of the excavated wetlands to be replaced with open water under certain conditions. The proposed rules will not require design modification to reduce impacts to wetlands below a specific Uniform Mitigation Assessment Method value to be established, except as

necessary to reduce or eliminate adverse impacts to water quality, offsite flooding, significant historic or archeological resources, or listed species or their habitats.

SUBJECT AREA TO BE ADDRESSED: Development of a new Chapter 62-348, F.A.C., to address wetland permitting and mitigation for peat mining for the horticultural industry, as required by HB 197, which created Section 373.414(6)(e), F.S., in 2007.

SPECIFIC AUTHORITY: 373.414, 373.4142, 373.459, 373.4595, 378.403, 378.503, 378.804, 403.265 FS.

LAW IMPLEMENTED: 373.414, 373.4142, 373.459, 373.4595, 378.403, 378.503, 378.804, 403.265 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: Howard J. Hayes, Florida Department of Environmental Protection, Bureau of Mine Reclamation, 2051 East Paul Dirac Drive, Tallahassee, Florida 32316-3760; or e-mail Howard.Hayes@dep.state.fl.us.

For information regarding mailings, schedules, and copies of notices contact Mary VanTassel at (850)245-8486 or e-mail: Mary.VanTassel@dep.state.fl.us.

Further information and updates on this proposed rule also may be obtained from the Department's web site at: <http://www.dep.state.fl.us/water/wetlands/erp/rules/rulestat.htm>. (OGC Tracking No. 07-1077)

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

| | |
|------------------|--|
| RULE NO.: | RULE TITLE: |
| 62-528.200 | Underground Injection Control: Definitions |

PURPOSE AND EFFECT: The definition for "municipal injection well" is being amended to be clear that only fluids that had first passed through the head of the permitted domestic wastewater treatment facility may be injected through the well in order for the injection well to be classified as a municipal injection well.

SUBJECT AREA TO BE ADDRESSED: The definition for "municipal injection well."

SPECIFIC AUTHORITY: 373.309, 403.061, 403.087 FS.

LAW IMPLEMENTED: 373.308, 403.021, 403.061, 403.087, FS.

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

DATE AND TIME: August 30, 2007, 1:30 p.m.
 PLACE: Room 611, Bob Martinez Building, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, FL

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Donnie McClaugherty, P.G., Department of Environmental Protection, Ground Water Regulatory Section, MS 3580, 2600 Blair Stone Rd., Tallahassee, FL 32399-2400; telephone (850)245-8645. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Donnie McClaugherty, P.G., Department of Environmental Protection, Ground Water Regulatory Section, MS 3580, 2600 Blair Stone Rd., Tallahassee, FL 32399-2400; telephone (850)245-8645
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE NO.: 64B1-4.001
 RULE TITLE: Acupuncture Program Requirements
 PURPOSE AND EFFECT: To update and clarify licensure requirements.

SUBJECT AREA TO BE ADDRESSED: Acupuncture Program Requirements.

SPECIFIC AUTHORITY: 457.102, 457.104, 457.105 FS.

LAW IMPLEMENTED: 456.033, 457.102, 457.105 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: Pamela E. King, Executive Director, Board of Acupuncture, 4052 Bald Cypress Way, Bin C06, Tallahassee, Florida 32399

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

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE NO.: 64B1-7.0015
 RULE TITLE: Continuing Education Requirement
 PURPOSE AND EFFECT: To address Continuing Education requirements.

SUBJECT AREA TO BE ADDRESSED: Continuing Education Requirement.

SPECIFIC AUTHORITY: 456.013, 457.104, 457.107, 457.108, 457.1085 FS.

LAW IMPLEMENTED: 456.013, 457.107, 457.108, 457.1085, 457.109 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: Pamela E. King, Executive Director, Board of Acupuncture, 4052 Bald Cypress Way, Bin C06, Tallahassee, Florida 32399

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

DEPARTMENT OF HEALTH

Division of Environmental Health and Statewide Programs

| RULE NOS.: | RULE TITLES: |
|------------|--|
| 64E-2.023 | Trauma Center Requirements |
| 64E-2.024 | Process for the Approval of Trauma Centers |
| 64E-2.025 | Extension of Application Period |
| 64E-2.026 | Certificate of Approval |
| 64E-2.027 | Process for Renewal of Trauma Centers |
| 64E-2.028 | Site Visits and Approval |
| 64E-2.029 | Application by Hospital Denied Approval |

PURPOSE AND EFFECT: To notice proposed revisions to the Florida Trauma Center Standards – DH Pamphlet 150-9, pursuant to the December 2006 revisions to the American College of Surgeons Guidelines.

The proposed rule revisions change the date of the Trauma Center Standards – DH Pamphlet 150-9 from December 2004 to December 2007. This document is incorporated by reference in the above rules, pursuant to Section 395.401(2), Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: Proposed Revisions to the Trauma Center Standards.

SPECIFIC AUTHORITY: 395.401(2), 395.4025 FS.

LAW IMPLEMENTED: 395.401(2) FS.

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

DATE AND TIME: Friday, August 24, 2007, 1:00 p.m. EDT
 PLACE: Marriott Tampa Airport, Tampa International Airport, Tampa, FL 33607, Conference Call Number: (888)808-6959, Conference Code: 2354440

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Susan McDevitt, Office of Trauma, Department of Health, 4052 Bald Cypress Way, Bin C-18, Tallahassee, Florida 32399-1738, (850)245-4440, ext. 2760; Email: susan_mcdevitt@doh.state.fl.us; Fax: (850)488-2512. The preliminary rule text and revisions to DH Pamphlet 150-9 can be found on the following website: <http://www.doh.state.fl.us/demo/Trauma/notices.htm> under "Notices and Upcoming Events."

DEPARTMENT OF HEALTH

Division of Environmental Health and Statewide Programs

| RULE NOS.: | RULE TITLES: |
|------------|---|
| 64E-12.001 | General |
| 64E-12.002 | Definitions |
| 64E-12.003 | Water Supply |
| 64E-12.004 | Food Service: Tiers and Catering |
| 64E-12.005 | Housing |
| 64E-12.006 | Vector and Vermin Control |
| 64E-12.007 | Bedding, Towels, Clothing and Personal Items |
| 64E-12.008 | Laundry |
| 64E-12.009 | Medications, Alcohol, Poisonous or Toxic Substances |
| 64E-12.011 | Recreational Areas |
| 64E-12.012 | Radon Testing |
| 64E-12.013 | Animal Health and Safety |

PURPOSE AND EFFECT: The purpose of the proposed rule change is to incorporate technical and scientific advancements that promote the protection of the public from a safety, health, and sanitation perspective. The effect of these changes will be to update the department's rules to more accurately reflect today's safety and health standards based on the Food and Drug Administration, Centers for Disease Control and Prevention, other safety related data resource guidelines and make the rules more easily understandable for the regulated community and regulatory officials. Additionally, the purpose of the proposed change is to clarify identified standards in the existing rule as requested by the regulated community and regulatory officials. Effects of these changes will provide added clarity to existing rule language.

SUBJECT AREA TO BE ADDRESSED: The changes will define terms used in statute and rule that have been identified as confusing or ambiguous, as well as incorporate current safety, health and general sanitation requirements that better safeguard the public against illnesses, injury and disease.

SPECIFIC AUTHORITY: 381.006 FS.

LAW IMPLEMENTED: 381.006(6), (16) 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: Robin Eychaner, Environmental Specialist III, Bureau of Community Environmental Health, 4052 Bald Cypress Way, Bin A08, Tallahassee, FL 32399-1710, (850)245-4277

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64E-12.001 General.

(1) This rule ~~chapter~~ prescribes sanitary practices relating to construction, operation and maintenance of ~~c~~Community ~~b~~Based ~~r~~Residential facilities. If a requirement ~~there is any written or implied language~~ in this rule ~~chapter~~ that may conflict with a specific requirement in any other Florida state licensing agency's rule, then that agency's standards shall prevail and will be addressed by that agency's officials ~~written to regulate a specific type community-based residential facility, the rule written for that specific type establishment will be followed.~~

(2) Base camps of wilderness programs shall be exempt from subsections (6) and (7) of Rule 64E-12.005, F.A.C., of this chapter, and the mobile components of wilderness programs shall be exempt from all sections of this rule.

(3) Personal services may be provided to the residents through coordinated outsourcing by the community based residential facility or by a contract provider.

Specific Authority 381.006, 381.006(16) FS. Law Implemented 381.006(6); (16), 386 FS. History--New 6-18-87, Formerly 10D-23.001, Amended _____.

64E-12.002 Definitions.

For the purpose of this chapter, the following words and phrases shall have the meaning indicated:

(1) Approved – means acceptable by law.

(2) Community Based Residential Facilities – means group care facilities as established under Section 381.006(16), F.S., used as a primary domicile by the resident and located in any building or buildings, section of a building, or distinct part of a building or other place, whether operated for profit or not, which undertakes, through its ownership or management, to provide for a period exceeding 24 hours, housing, food service, and one or more personal services for persons not related to the owner or administrator by blood or marriage, who require such services. This term does not include family foster homes as defined in paragraph 409.175(2)(e), F.S., or foster care

facilities as defined in paragraph 393.063(15), F.S., of the Florida Statutes, and correctional facilities, such as detention centers, jails or prisons.

(3) Department – means the Florida Department of Health and county health departments.

(4) Food Preparation – means the manipulation of foods intended for human consumption by such means as washing, slicing, peeling, chipping, shucking, scooping, and or portioning. The term also includes those activities involving temperature changes, combining ingredients, opening ready-to-eat food packages, or any other activity causing physical or chemical alterations in the food.

(5) Hot Water – means water heated to a minimum temperature of 100 degrees Fahrenheit (°F).

(6) Law – means applicable statutes, rules, codes, or ordinances adopted by local, state, and federal agencies that have regulatory oversight or inspection authority.

(7) Minor – means any person under the age of 18 years old.

(8) Open Water Hazard – means any body of water such as canals, creeks, holding ponds, rivers, lakes, or swamps which are unrestricted by a barrier at least 4 feet in height, on or abutting the property of a community based residential facility. This term does not include pools or spas and small ornamental fish ponds, or above ground fountains which are less than 24 inches deep and have less than 200 square feet of surface area.

(9) Personal Services – means providing supervision, custodial care, or assisting a resident with the tasks or functions in their daily living activities, such as bathing, dressing, laundry, eating, ambulation, grooming, toileting, or monitoring medications.

(10) Potentially Hazardous Food – means any perishable food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting:

(a) Rapid and progressive growth of infectious or toxigenic microorganisms; or

(b) The slower growth of *Clostridium botulinum*. The term “potentially hazardous food” does not include foods which have a pH level of 4.6 or below, or a water activity (Aw) value of 0.85 or less, or air-cooled hard-boiled eggs with the shell intact.

(11) Renovation – means any structural or equipment changes in the food storage, service, preparation, or dining area. This does not include replacing existing equipment with like equipment. Substantial renovation includes structural changes to an existing establishment which costs in excess of 33 percent of the assessed value of the facility as determined by the county property appraiser.

(12) Resident – means a person living ~~residing~~ in and receiving personal services ~~care~~ from a community based residential facility, or personal services through coordinated outsourcing, typically due to a specific emotional, social, or health related condition.

(13) Vector – means an organism that transmits a pathogen. This term includes, but is not limited to insects, rodents and bats.

(14) Wading Pool – means a temporary and portable pool that holds water, is less than 24 inches in depth, and without motors. It may also be known as a kiddy pool.

Specific Authority 381.006, 381.006(16) FS. Law Implemented 381.006(6), (16) FS. History–New 6-18-87, Amended 8-7-96, Formerly 10D-23.002, Amended _____.

64E-12.003 Water Supply.

(1) Water supplies shall be adequate to serve the demands of the facility and shall be constructed, operated and maintained in accordance with requirements of Chapters 62-550 and 62-555 or Chapter 64E-8, Florida Administrative Code (F.A.C.).

(a) Routine Testing. Facilities served by a private well drinking water supply not regulated by Chapter 64E-8 or 62-550, F.A.C., shall test the water and submit bacteriological water test results to the local county health department (CHD):

1. Before opening the facility.

2. At least every 12 months.

3. Upon relocation.

4. Before having the well placed in service after construction, repair, or modification or.

5. After an emergency situation, such as a flood, that may introduce contaminants to the system.

(b) Test results must be negative for bacteriological contamination.

(c) Positive test results require the facility to temporarily provide potable water from a source approved by law for the purpose of drinking, cooking, and oral contact until test results are negative. In addition, a well that tests positive shall be disinfected, flushed, and tested for bacterial contamination.

(d) Laboratory test results must be submitted on forms provided by the testing laboratory.

(e) Testing can be obtained through the local county health department or a certified independent laboratory.

(2) Drinking water shall be accessible to all residents. When drinking fountains are available, they shall be designed in compliance with the plumbing provisions of the State Building Code, as adopted in Rule 9B-3.047, F.A.C. State Plumbing Code, Chapter 553.06, Florida Statutes (F.S.). When no approved drinking fountains are available, residents shall be provided with single service cups or clean drinking utensils which shall be stored and dispensed in a manner to prevent contamination. Common drinking cups are prohibited.

(3) No change.

Specific Authority 381.006, 381.006(16) FS. Law Implemented 381.006(6); (16) FS. History—New 6-18-87, Amended 8-7-96, Formerly 10D-23.003, Amended _____.

64E-12.004 Food Service: Tiers and Catering.

There ~~are shall be~~ three tiers levels of food service, each with different minimal requirements ~~in community based residential facilities~~ based on facility type or the number of residents in care. Only one tier of service as listed in sections one to three (1-3) below will be applied to any facility. Facilities receiving or providing catered food must meet applicable standards as described in subsection (4) below.

(1) Tier I. Facilities meeting the definition of “adult family-care home” regardless of the number of residents as defined in Section 400.618, F.S., and other community based residential facilities with a maximum capacity to house up to 5 residents, shall comply with the following requirements: ~~If food service is provided in the facility for 10 or fewer residents in care, the facility shall comply with the following requirements:~~

(a) Food used in the facility shall be clean, wholesome, free from spoilage and safe for human consumption. Home canned food shall not be used. Canned food shall be from sources that are approved by law.

(b) ~~The facility shall store, prepare and serve foods in such a manner as to~~ protect food from dust, flies, rodents and other vermin, toxic materials, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding by sewage, overhead leakage and all other sources of contamination at all times during storage, food preparation, transportation both on and off premises, and service.

(c) Food storage equipment shall be provided to keep all potentially hazardous foods at safe temperatures, ~~41^oF degrees Fahrenheit~~ or below or ~~140^oF degrees Fahrenheit~~ or above, except during necessary periods of preparation and service. Potentially hazardous food shall not have been out of temperature more than 4 cumulative hours during the course of thawing, preparation, service and cooling.

(d) No change.

(e) Refrigeration units and hot food storage units used for the storage of potentially hazardous foods shall be provided with a numerically scaled indicating thermometer accurate to plus or minus 3^oF. The thermometer shall be located in the warmest or coldest part of the units as may be applicable and of such type and so situated that the temperature can be easily and readily observed.

(f) Labeling and Dating. Food containers shall be labeled with their contents and labels shall correctly identify the contents of the container. Potentially hazardous foods and potentially hazardous foods that are in a form which is edible without washing, cooking, or additional preparation, including previously cooked foods such as leftovers, must be stored in accordance with the date marking and disposition requirements of subsections 64E-11.004(14) and (15), F.A.C.

(2) Tier II. Except as described in subsection (1) above, if ~~if~~ food service is provided in a ~~the~~ facility with a maximum capacity to house from ~~for~~ 6 to 10+ residents or fewer more, but fewer than 25, residents in care, the facility shall comply with the following requirements:

(a) In Chapter 64E-11, F.A.C.:

1. Sections 64E-11.002, Definitions;

2. 64E-11.003, Food Supplies;

3. 64E-11.004, Food Protection;

4. 64E-11.005(1)(2)(b., c., e., f.)(3)(4)(5), Personnel;

5. 64E-11.013(3)(c), 1., 2., 4. of Chapter 64E-11, F.A.C., shall apply.

(b) Facilities opening, initially licensed by the licensing agency, or renovating on or after October 1, 2007 shall, prior to construction or renovation of a food service operation or prior to substantial facility renovation, notify the department and provide plans of the proposed construction or renovation, for review and approval at least 90 days prior to the start of the project. Plans shall be submitted by the owner, prospective operator, or their designated representative. All plans shall be in compliance with this section, shall be drawn to scale, describe the layout, construction, finish schedule, general operation of the facility, equipment design and installation, and similar aspects of the facility’s food service operation. A copy of the intended menu shall be provided to the department as part of the plan review.

(c) The floor surfaces in kitchens, all the rooms and areas in which food is stored or prepared and in which utensils are washed or stored, shall be of smooth, nonabsorbent material and constructed so ~~they~~ it can be easily cleaned and shall be kept clean and in good repair.

(d) The walls and shelving ceilings of all food preparation areas, food storage areas, utensil washing and handwashing rooms or areas shall have smooth, easily cleanable surfaces. Walls shall be washable up to the highest level reached by splash or spray.

(e) Hot and cold running water under pressure shall be easily accessible where food is prepared and where utensils are washed.

(f) A ~~h~~Handwashing sink facilities, provided with hot and cold running water under pressure, shall be located within the food preparation area. A sign must be posted clearly designating the sink for handwashing purposes ~~in new residential facilities and residential facilities which are extensively altered.~~ A hand washing sink shall not be used for any other purpose. Facilities inspected and approved by the department prior to October 1, 2007, are exempt from this requirement until such time as kitchen renovation will occur or substantial renovation will occur at the facility.

(g) In addition to the designated one compartment handwashing sink in paragraph (f) above, a two compartment sink or one compartment sink and a residential use dishwasher shall be provided for warewashing. Notwithstanding the

provisions in paragraph (f) above, if a facility has a two compartment sink and a residential dishwasher, one compartment of the two compartment sink can be designated as a handwashing sink when labeled and used exclusively as such. Existing facilities shall have until October 1, 2008, to comply with this requirement.

(h) Multi-use equipment and utensils shall be constructed and repaired with materials that are non-toxic, corrosion resistant and nonabsorbent; and shall be smooth, easily cleanable and durable under conditions of normal use; and shall not impart odors, color or taste nor contribute to the contamination of food.

(i) All multi-use eating and drinking utensils shall be thoroughly cleaned with hot water and an effective detergent, then shall be rinsed free of such solution, then effectively sanitized as defined in Chapter 64E-11, F.A.C.

(h) A three compartment sink or two compartment sink and dishwasher with an effective, automatic sanitizing cycle, shall be provided. Machine sanitization may be accomplished by the use of chemical solutions, hot water or hot air. After sanitizing, utensils shall be air dried and properly stored. Other types of warewashing devices may be approved by the county health unit.

(j) Refrigeration units and hot food storage units used for the storage of potentially hazardous foods shall be provided with a numerically scaled indicating thermometer accurate to plus or minus 3 degrees Fahrenheit. The thermometer shall be located in the warmest or coldest part of the units as may be applicable and of such type and so situated that the temperature can be easily and readily observed.

(k) Potentially hazardous foods and potentially hazardous foods that are in a form which is edible without washing, cooking, or additional preparation, including previously cooked foods such as leftovers, must be stored in accordance with the date marking and disposition requirements of subsections 64E-11.004(14) and (15), F.A.C.

(l) The facility shall protect food and food equipment from all sources of contamination at all times during storage, food preparation, service, and transportation both on and off premises.

(j) No live animals shall be kept or allowed in the food storage, preparation and serving area.

(m) Live animals and pets living in or visiting a community based residential facility shall not enter the kitchen or any food preparation areas when food is being prepared or served. Preventing pets and animals from entering the kitchen or food preparation areas must be effective and may consist of passive restraint through obedience training, use of physical barriers such as a gate, physical restraint such as limiting the animal to a room outside of the kitchen or food preparation area, or any other effective means. Animals and pets shall not be fed, watered, bedded, kept, or caged in the kitchen, food preparation, food storage, or dining area. Animal care supplies

shall not be kept in the kitchen or other food storage areas. If live animals have access to kitchen and dining areas during non-food preparation and service times, then the facility shall effectively sanitize the dining tables, kitchen counter top surfaces, food preparation surfaces, and other similar surfaces immediately before the next meal service or food preparation begins. Persons handling or having direct physical contact with an animal must wash their hands immediately prior to preparing or serving food.

(n) As part of an organized activity, residents may participate in food preparation under direct supervision of the designated staff person in charge of food service activities, who is knowledgeable in food hygiene safety.

(o) Labeling. Food containers shall be labeled with their contents and labels shall correctly identify the contents of the container.

(3) Tier III. If food service is provided in a hospice residential unit or a the facility with a maximum capacity of for 1125 or more residents, it shall comply with Chapter 64E-11, F.A.C. Existing facilities shall have until September 30, 2008, to comply with the requirements of Chapter 64E-11, F.A.C., except for item paragraph (b) below.

(a) Any organized food preparation activity in which residents may participate in food preparation as part of the organized activity, under the direct supervision of a trained food service employee per Rule 64E-11.012, F.A.C. This does not apply to specific designated therapeutic classes with activities for an individual or a group of individuals as part of their occupational, physical, or rehabilitation therapy activities to regain basic self sufficiency skills. These therapy classes are provided by a licensed occupational or physical therapist.

(b) Facilities with capacities of 11-24 residents that have been in continuous operation since initial regulation or licensing by the department prior to October 1, 2007, are exempt from subsection 64E-11.008(7), F.A.C., until the facility remodels the kitchen or dining area, or substantially remodels the facility.

(4) Catering. If food is catered from outside sources, the caterer shall be licensed or regulated by a state or federal regulatory food program with Chapter 64E-11, F.A.C. Catered food once delivered to a community based residential facility must be adequately protected. If a community based residential facility caters additionally to outside sources, it must meet all Chapter 64E-11, F.A.C., licensing standards.

(a) When catering is provided as the primary means of food supply, a copy of a current catering agreement shall be provided to the local county health department at least annually and when a change in the agreement occurs. The agreement shall minimally include the designated delivery times, method of hot and cold holding once food is delivered, whether bulk or individually portioned food will be provided, and a designated responsible party for cleaning and sanitizing any multi-use equipment and utensils.

(b) Upon delivery of catered food to a community based residential facility, catered food must be adequately protected from contamination. The facility shall maintain a daily log indicating the date and time of delivery, name or type of potentially hazardous food(s), and using an accurate food thermometer measure and log the food temperatures upon arrival. Entries in the log shall be made at the time of delivery. These temperature logs shall be maintained and retained at the facility for a period not less than 6 months. The records required by this section must be made available for review by the department upon department request.

(c) If outside catering is not the primary means of food supply to the facility, and the facility only partakes in the occasional carry-out or delivery of items such as, pizza, wings, sub-sandwiches, fried chicken, or barbecued food, the catering requirements listed in paragraphs (a) and (b) above, do not apply.

Specific Authority 381.006, 381.006(16), 381.0072(2)(a) FS. Law Implemented 381.006(6);(16), 381.0072(2)(a), (b), (c), 386 FS. History--New 6-18-87, Formerly 10D-23.006, Amended _____.

64E-12.005 Housing.

(1) The facility shall provide safe and sanitary housing free from objects, materials, and conditions that constitute a danger to the residents.

(2) Floors, walls, ceilings, windows, doors and all appurtenances of the structures shall be of sound construction, properly maintained, easily cleanable and shall be kept clean.

(a) Floor surfaces shall be of non-slip type and maintained free of loose or broken tiles and boards, holes, uneven projections, protruding nails, tears, splinters, water spillage and other tripping hazards. Bathtubs and showers shall contain slip-resistant strips, slip-resistant rubber bath mats, or slip-resistant surfaces.

(b) through (c) No change.

(d) All external windows designed to open shall be accessible and operable.

(3) No change.

(4) All areas of the facility shall be well lighted. Dormitories, bedrooms, toilets, bathing rooms, shower rooms, and dayrooms shall have light fixtures that provide ~~capable of providing~~ at least 20 foot candles of illumination in all areas of the room, measured at a distance 30 inches from the floor, to permit observation, cleaning and maintenance. Light fixtures shall be maintained to work as designed and kept clean.

(5) No change.

(6) No change.

(7) Mechanical cooling devices shall be ~~used and in working condition made available for use~~ in those areas of buildings occupied by residents when inside temperatures exceed 85° Fahrenheit. Exceptions are made when the resident is capable and in control of the thermostat or cooling devices in their personal area and chooses for it to exceed 85° Fahrenheit.

(8) All heating and cooling systems shall be consistent with current building and fire code rules applicable to the area where the facility is located, as determined by building and fire officials.

(9) No change.

(10) Plumbing shall be maintained in compliance with the requirements of the plumbing provisions of the State Building Code, as adopted in Rule 9B-3.047, F.A.C. and ~~State Plumbing Code~~, Chapter 553.06, F.S.

(11) through (12) No change.

Specific Authority 381.006, 381.006(16) FS. Law Implemented 381.006(6), (16) FS. History--New 6-18-87, Amended 8-7-96, Formerly 10D-23.009, Amended _____.

64E-12.006 ~~Vector and Vermin~~ Insect and Rodent Control.

(1) Effective control measures shall be utilized to minimize the presence of rodents, flies, cockroaches and other vectors ~~insects~~ on the premises. The primary means of pest control shall be the use of integrated pest management (IPM) systems and tools. IPM tools, such as "Integrated Pest Management for Schools: How-to Manual" which are recognized by the United States Environmental Protection Agency, are approved practices for the control of pests throughout a residential facility. The manual is available at <http://www.epa.gov/pesticides/ipm/schoolipm/index.html> or by writing for a free copy to EPA Pesticides Section, U.S. EPA Region 9, 75 Hawthorne Street (CMD-5), San Francisco, CA 94105. Use of IPM systems and tools does not restrict the use of licensed pest control companies or individuals.

(2) The creation, maintenance or causing of any condition capable of propagating ~~insects, or rodents, vectors and vermin~~ will not be permitted. All buildings shall be effectively maintained rodent-proofed and rodent free. All outside openings shall be effectively sealed or screened with 16 mesh screening or equivalent, to prevent entry of insects, ~~or rodents,~~ or other vermin, except in wilderness programs when mosquito netting is provided to each resident.

Specific Authority 381.006, 381.006(16), FS. Law Implemented 381.006(6); (16) FS. History--New 6-18-87, Amended 8-7-96, Formerly 10D-23.010, Amended _____.

64E-12.008 Laundry.

(1) No change.

(2) Laundry rooms shall have fixtures that provide at least 30 foot-candles of illumination, be kept clean and free of lint build-up, and be properly ventilated as specified in the State Building Code, as adopted in Rule 9B-3.047, F.A.C. Lighting will be measured 30 inches above the floor. ~~Laundry rooms shall be well lighted and properly ventilated.~~ Clothes dryers shall be vented to the exterior. Carts used for transporting dirty clothes, linens and towels shall not be used for transporting clean articles unless the carts have been thoroughly cleaned and sanitized.

Specific Authority 381.006, 381.006(16) FS. Law Implemented 381.006(6); (16) FS. History–New 6-18-87, Formerly 10D-23.012, Amended _____.

64E-12.009 Medications, Alcohol, Poisonous or Toxic Substances.

(1) Poisonous, or toxic substances compounds are to be stored apart from food and other areas that would constitute a hazard to the residents. All containers containing poisonous or toxic substances must be clearly labeled to indicate their contents.

(2) All toxic, poisonous, and alcoholic substances shall be kept in locked areas, such as a locked office, locked cabinet, or locked cupboard at all times when not in use. This does not apply to alcoholic beverages. Alcoholic beverages shall be kept out of a child’s reach.

(3) Medications shall be kept in locked areas, such as a locked office, locked cabinet, or locked box at all times when not in use. This is in addition to a childproof medicine bottle cap, lid, or other packaging. Exceptions are extended to adults capable of self medication, life saving medications such as epinephrine pens, insulin, nitro glycerin, or asthma inhalers that may be needed by the resident who is capable of self-medication in an emergency due to illness or disease. Medicine containers or packaging must be clearly labeled indicating the prescribed individual’s name and its contents. Medications requiring refrigeration or which are stored in a food service or food storage area, shall be stored in such a manner that they do not pose a contamination hazard to food.

Specific Authority 381.006, 381.006(16) FS. Law Implemented 381.006(6), (16) FS. History–New 6-18-87, Formerly 10D-23.013, Amended _____.

64E-12.011 Recreational Areas.

(1) through (2) No change.

(3) If swimming pools, spas, or open water hazards are located on the property of a ~~available in~~ community based residential facilities, the ~~pools should be~~ facility shall provide ~~direct supervisioned by an adult employee when in use used or when the area is occupied by children minors and other residents that cannot swim are not capable of self-preservation.~~ The individual responsible for supervision during water activities or near water hazards must have successfully completed the community water safety course specified in paragraph (b) below.

(a) Wading or kiddy pool is not allowed.

(b) All community based residential facilities with swimming pools, spas, or open water hazards must have a person on staff who has completed a community water safety course administered by the American Red Cross, YMCA, or any aquatic training program granted approval under paragraph 64E-9.008(1)(d), F.A.C.

(c) All residential pools and spas, regardless of construction date, shall meet the requirements of Chapter 515, of the Florida Statutes.

(d) Water safety devices shall be provided for residential pools. A shepherd’s hook shall be provided securely attached to a one piece pole not less than 16 feet in length, and at least one 18 inch diameter lifesaving ring with sufficient rope attached to reach all parts of the pool from the pool deck. Safety equipment shall be mounted in a conspicuous place and be readily available for use. Residential spas and hot tubs are exempt from this requirement.

Specific Authority 381.006, 381.006(16), FS. Law Implemented 381.006(6); (16), FS. History–New 6-18-87, Amended 8-7-96, Formerly 10D-23.015, Amended _____.

64E-12.012 Radon Testing.

Radon Testing shall be conducted in accordance with requirements listed in Chapter 404 of the Florida Statutes. Radon testing information can be obtained at 1(800)543-8279.

Specific Authority 404.056(4), (6), 381.006 FS. Law Implemented 404.056(4), 381.006(16) FS. History–New _____.

64E-12.013 Animal Health and Safety.

(1) Animals requiring rabies vaccination under Section 828.30, F.S., must be vaccinated for rabies and their vaccinations must be current at the time of inspection. Proof of rabies vaccination or veterinary certification of vaccination exemption shall be kept on the premises at all times.

(2) All animals must be kept in good health and free from disease or under treatment by a licensed veterinarian. Indoor animals frequenting the outside must have an annual screening for internal parasites by a licensed veterinarian. Any animal positive for internal parasites must be treated appropriately by the licensed veterinarian. Animals being kept or having access to the indoors must be treated for flea control throughout the year to prevent infestations.

(3) Aggressive, venomous, or potentially dangerous animals must be restricted from access by the residents at all times and kept in such a manner so as not to be able to become free roaming and cause or inflict harm to the residents, visitors, or employees. These animals may not be housed in the residents’ sleeping quarters.

Specific Authority 381.006(6), 381.006(16) FS. Law Implemented 381.006(6), (16) FS. History–New _____.

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NO.: 69B-240.001
 RULE TITLE: Military Sales Practices

PURPOSE AND EFFECT: The proposed rule chapter sets forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices.

SUBJECT AREA TO BE ADDRESSED: The proposed rule chapter is intended to regulate the sale of life insurance including the sale of annuities to United States' military service members.

SPECIFIC AUTHORITY: 624.308(1), 626.9541(1), 626.9611(2) FS.

LAW IMPLEMENTED: 626.307(1), 626.951, 626.9521, 626.9541(1), 626.9611 FS.

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

DATE AND TIME: Thursday, August 30, 2007, 9:30 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Nancy Rowell, (850)413-5401. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Nancy Rowell, Director of Agent and Agency Services, Division of Insurance Agent and Agency Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0319, phone (850)413-5401

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

MILITARY SALES PRACTICES

69B-240.001 Military Sales Practices.

(1) The purpose of this rule is to set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive, or unfair.

(2) Scope – This rule shall apply only to the solicitation or sale of any life insurance or annuity product by an insurance producer to an active duty service member of the United States Armed Forces.

(3) Exemptions – This rule shall not apply to solicitations or sales involving:

(a) Credit insurance;

(b) Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund;

(c) Individual stand-alone health policies, including disability income policies;

(d) Contracts offered by Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI), as authorized by 38 U.S.C. Section 1965 et seq., which are hereby incorporated by reference;

(e) Life insurance contracts offered through or by a non-profit military association, qualifying under Section 501(c)(23) of the Internal Revenue Code (IRC), and which are not underwritten by an insurer; or

(f) Contracts used to fund:

1. An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

2. A plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the IRC, which are hereby incorporated by reference, if established or maintained by an employer;

3. A government or church plan defined in Section 414 of the IRC, which is hereby incorporated by reference, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC, which is hereby incorporated by reference;

4. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

5. Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

6. Prearranged funeral contracts.

(g) Nothing herein shall be construed to abrogate the ability of nonprofit organizations (and/or other organizations) to educate members of the United States Armed Forces in accordance with Department of Defense (DoD) Instruction 1344.07 – PERSONAL COMMERCIAL SOLICITATION ON DoD INSTALLATIONS, which is hereby incorporated by reference.

(4) Definitions

(a) “Active Duty” means full-time duty in the active military service of the United States and includes members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training or in a drill status in the National Guard or United States Armed Forces Reserve.

(b) “Department of Defense (DoD) Personnel” means all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense.

(c) “General Advertisement” means an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance, or the promotion of the insurer or the insurance producer.

(d) "Insurer" means an insurance company conducting activities requiring to be licensed under the laws of this state to provide life insurance products, including annuities.

(e) "Insurance producer" means a person conducting activities required to be licensed under the laws of this state to sell, solicit, or negotiate life insurance, including annuities.

(f) "Life Insurance" means insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income and unless otherwise specifically excluded, includes individually issued annuities.

(g) "Military Installation" means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.

(h) "MyPay" is a Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.

(i) "Service Member" means any active duty officer (commissioned and warrant) or enlisted member of the United States Armed Forces.

(j) "Side Fund" means a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement, or other mechanism which accumulates premium or deposits with interest or by other means. The term does not include:

1. Accumulated value or cash value or secondary guarantees provided by a universal life policy;

2. Cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or

3. A premium deposit fund which:

a. Contains only premiums paid in advance which accumulate at interest;

b. Imposes no penalty for withdrawal;

c. Does not permit funding beyond future required premiums;

d. Is not marketed or intended as an investment; and

e. Does not carry a commission, either paid or calculated.

(k) "Specific Appointment" means a prearranged appointment agreed upon by both parties and definite as to place and time.

(l) "United States Armed Forces" means all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(5) The following acts or practices when committed on a military installation by an insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be unfair or deceptive acts or practices by Section 626.9541 or 626.9551, F.S.:

(a) Soliciting the purchase of any life insurance product "door to door" or without first establishing a specific appointment for each meeting with the prospective purchaser.

(b) Soliciting service members in a group or "mass" audience or in a "captive" audience where attendance is not voluntary.

(c) Making appointments with or soliciting service members during their normally scheduled duty hours.

(d) Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or other areas where the installation commander has prohibited solicitation.

(e) Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander's designee.

(f) Posting bulletins, notices, or advertisements, which have not been authorized by the installation commander.

(g) Failing to present DD Form 2885, Personal Commercial Solicitation Evaluation, to service members solicited or encouraging service members solicited not to complete or submit a DD Form 2885, which is hereby incorporated by reference.

(h) Accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the United States Armed Forces without first obtaining for the insurer's files a completed copy of any required form which confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives, or rules of the DoD or any branch of the Armed Forces.

(i) Using DoD personnel, directly or indirectly, as a representative or agent in any official or business capacity with or without compensation with respect to the solicitation or sale of life insurance to service members.

(j) Participating or using another insurance producer to participate in any United States Armed Forces sponsored education or orientation program.

(6) The following acts or practices by an insurance producer constitute corrupt practices, improper influences or inducements and are declared to be unfair or deceptive acts or practices prohibited by Section 626.9541 or 626.9551, F.S., regardless of the location where committed:

(a) Submitting, processing, or assisting in the submission or processing of any allotment form or similar device used by the United States Armed Forces to direct a service member's pay to a third party for the purchase of life insurance. The foregoing includes, but is not limited to, using or assisting in using a service member's "MyPay" account or other similar internet or electronic medium for such purposes. This subsection does not prohibit assisting a service member by providing insurer or premium information necessary to complete any allotment form.

(b) Receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this section, a formal banking relationship is established when the depository institution:

1. Provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. § 4301 et seq., which are hereby incorporated by reference, and the regulations promulgated thereunder, which are hereby incorporated by reference; and

2. Permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.

(c) Employing any device or method or entering into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's Leave and Earnings Statement or equivalent or successor form as "Savings" or "Checking" and where the service member has no formal banking relationship as defined in paragraph (6)(b).

(d) Entering into any agreement with a depository institution for the purpose of receiving funds from a service member whereby the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.

(e) Using DoD personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity with or without compensation with respect to the solicitation or sale of life insurance to service members, or to the family members of such personnel.

(f) Offering or giving anything of value, directly or indirectly, to DoD personnel to procure their assistance in encouraging, assisting, or facilitating the solicitation or sale of life insurance to another service member.

(g) Offering or giving anything of value to a service member for his or her attendance to any event where an application for life insurance is solicited.

(h) Advising a service member to change his or her income tax withholding or state of legal residence for the sole purpose of increasing disposable income to purchase life insurance.

(i)1. Making any representation, or using any device, title, descriptive name, or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer, or product offered is affiliated, connected or associated with, endorsed, sponsored, sanctioned, or recommended by the U.S. Government, the United States Armed Forces, or any state or federal agency or government entity. Examples of prohibited insurance producer titles include, but are not limited to, "Battalion Insurance

Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant," or "Veteran's Benefits Counselor."

2. Nothing herein shall be construed to prohibit a person from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning. Such designations include, but are not limited to, Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Master of Science In Financial Services (MSFS), or Masters of Science Financial Planning (MS).

(j) Soliciting the purchase of any life insurance product through the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the United States Armed Forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer, or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned, or recommended by the U.S. Government, or the United States Armed Forces.

(k) Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.

(l) Excluding individually issued annuities, misrepresenting the mortality costs of a life insurance product, including stating or implying that the product "costs nothing" or is "free."

(m) Making any representation regarding the availability, suitability, amount, cost, exclusions, or limitations to coverage provided to a service member or dependents by SGLI or VGLI, which is false, misleading, or deceptive.

(n) Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations to coverage of SGLI or VGLI to private insurers which is false, misleading, or deceptive.

(o) Suggesting, recommending, or encouraging a service member to cancel or terminate his or her SGLI policy or issuing a life insurance policy which replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member's separation from the United States Armed Forces.

(p) Deploying, using, or contracting for any lead generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance.

(q) Failing to disclose that a solicitation for the sale of life insurance, if that is the case, will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser.

(r) Failing to clearly and conspicuously disclose the fact that the product being sold is life insurance or an annuity contract.

(s) Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the "Military Personnel Financial Services Protection Act," Pub. L. No. 109-290, p.16, which are hereby incorporated by reference.

(t) When the sale is conducted in-person face-to-face with an individual known to be a service member, failing to provide the applicant at the time the application is taken:

1. An explanation of any free look period with instructions on how to cancel if a policy is issued; and

2. Either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance or annuity contract, the death benefit applied for and its expected first year cost. A basic illustration that meets the requirements of Section 626.99, F.S., shall be deemed sufficient to meet this requirement for a written disclosure.

(u) Excluding individually issued annuities, recommending the purchase of any life insurance product which includes a side fund to a service member unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.

(v) Offering for sale or selling a life insurance product which includes a side fund to a service member, who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance.

1. "Insurable needs" are the risks associated with premature death, taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and/or survivors or dependents.

2. "Other military survivor benefits" include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits.

(w) Excluding individually issued annuities, offering for sale or selling any life insurance contract which includes a side fund:

1. Unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;

2. Unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of

return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from one (1) to ten (10) and for every fifth policy year thereafter ending at age 100, policy maturity, or final expiration; and

3. Which by default diverts or transfers funds accumulated in the side fund to pay, reduce, or offset any premiums due.

(x) Excluding individually issued annuities, offering for sale or selling any life insurance contract which after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance.

(y) Selling any life insurance product to an individual known to be a service member that excludes coverage if the insured's death is related to war, declared or undeclared, or any act related to military service except for an accidental death coverage, e.g., double indemnity, which may be excluded.

(7) The department has authority to investigate the affairs of any person to whom this rule applies to determine whether such person has violated this rule. If such investigation demonstrates that a violation of this rule has occurred, the person in violation shall be subject to the procedures and penalties provided in Sections 626.9571, 626.9581, 626.9591, and 626.9601, F.S.

Specific Authority 624.308(1), 626.9541(1), 626.9611(2) FS. Law Implemented 626.307(1), 626.951, 626.9521, 626.9541(1), 626.9611 FS. History--New _____.

Section II Proposed Rules

DEPARTMENT OF REVENUE

Sales and Use Tax

| RULE NOS.: | RULE TITLES: |
|------------|---|
| 12A-1.038 | Consumer's Certificate of Exemption; Exemption Certificates |
| 12A-1.039 | Sales for Resale |
| 12A-1.056 | Tax Due at Time of Sale; Tax Returns and Regulations |

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.038, F.A.C. (Consumer's Certificate of Exemption; Exemption Certificates), and Rule 12A-1.039, F.A.C. (Sales for Resale), is to: (1) provide instructions for the Department's on-line Certificate Verification System, which allows users to verify the validity of an entity's Florida Consumer's Certificate of Exemption number and the validity of a purchaser's sales tax certificate of registration number; (2) update information on where to contact the Department regarding the verification of an entity's Florida Consumer's Certificate of Exemption number or the