

DEPARTMENT OF MILITARY AFFAIRS

RULE NO.: RULE TITLE:
70-1.001 Family Readiness Program
 NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 5, February 1, 2008 issue of the Florida Administrative Weekly has been withdrawn.

**Section IV
Emergency Rules**

DEPARTMENT OF REVENUE

Property Tax Oversight Program

RULE NOS.:	RULE TITLES:
12DER08-20	Scope of Emergency Rules 12DER08-21 Through 12DER08-26; How to Obtain Forms
12DER08-21	Transfer of Assessment Limitation Difference; "Portability;" Sworn Statement Required
12DER08-22	Tangible Personal Property Exemption
12DER08-23	Additional Homestead Exemption Pursuant to Section 196.031(1)(b), F.S.; 2008 Tax Year
12DER08-24	Repeal of Rule 12DER08-12, Assessment Increase Limitation Applicability Contained in SB 4D; Application Required by Section 193.1556, F.S., Is Not Required Until March 1, 2009
12DER08-25	Denials and Late Filed Applications for Transfer of Assessment Limitation Differential (Portability)
12DER08-26	Appeals to the Value Adjustment Board of Denials and of Amount of Transfer of Assessment Limitation Difference (Portability)

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Chapter 2007-339 (Senate Bill 4-D), Laws of Florida and Chapter 2008-173 (Senate Bill 1588), Laws of Florida, authorized the Department of Revenue to adopt emergency rules that could remain in effect for 18 months and that could be renewed. These acts further provided that all conditions imposed by Chapter 120, Florida Statutes, were deemed to be met.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the Department of Revenue to adopt emergency rules that implement the provisions of Chapter

2007-339 (Senate Bill 4-D), Laws of Florida and Chapter 2008-173 (Senate Bill 1588), Laws of Florida. The law provides that these emergency rules remain in effect for a period of 18 months and that they may be renewed. The forms included here are based on the requirements of Chapter 2008-173 (Senate Bill 1588), Laws of Florida, as passed by the 2008 Legislature. The Department of Revenue has taken several actions to inform interested parties about the forms, procedures, and emergency rules that are being developed to implement this new law, and to give such parties an opportunity to review and comment. These interested parties include property appraisers and the professional associations that represent them, counties, municipalities, and independent districts, their associations, and practitioners who have told the Department that they want to receive all information associated with property tax rulemaking. The actions that the Department has taken include: requesting the assistance of other state agencies and professional associations in ascertaining if the information in the relevant sections of Chapter 2007-339, Laws of Florida, have been understood; posting information, forms and procedures associated with implementation of this act on a special Internet website at <http://dor.myflorida.com/dor/property/sb4d.html> for issues regarding recent legislative changes to the laws governing property tax; emailing and/or mailing copies of the draft forms to property appraisers with requests for comments; and conducting a public workshop on January 22, 2008 to receive comments on the Department's proposed procedures and draft forms that are the basis of these emergency rules, as well as previously-adopted Emergency Rules 12DER08-01 through 12DER08-06, and 12DER08-07 through 12DER08-12.

SUMMARY: Rule 12DER08-20 (Scope of Emergency Rules 12DER08-21 Through 12DER08-26; How to Obtain Forms) describes in detail the scope and application of emergency rules when implementing the provisions of Chapter 2007-339 (Senate Bill 4-D), Laws of Florida, and Chapter 2008-173 (Senate Bill 1588), Laws of Florida. Emergency Rules 12DER08-20 through 12DER08-26 supersede any other existing rules of the Department that deal with the same or similar issues and should be read in conjunction with those source documents that created the laws, and not rely solely on these rules. Rule 12DER08-21 (Transfer of Assessment Limitation Difference; "Portability;" Sworn Statement Required) shall replace Rule 12DER08-08. This rule sets forth the limitations and special rules to be observed and the forms to be used by applicant taxpayers and property appraisers for the transfer of assessment limitation difference, when a homestead is abandoned. 12DER08-22 (Tangible Personal Property Exemption) shall replace Rule 12DER08-09. This rule describes the procedure applicant taxpayers can use to apply for and receive this exemption, and the duties of the property appraiser when allocating exemptions and preparing the tax roll. Emergency Rule 12DER08-23 (Additional Homestead Exemption Pursuant to Section 196.031(1)(b), F.S.;

2008 Tax Year) shall replace Rule 12DER08-10. This rule provides that no new application form will be necessary. The additional homestead exemption shall only apply to non-school levies, and the property appraiser shall have additional duties when documenting changes in the assessment roll. Rule 12DER08-11 is not affected. Rule 12DER08-24 (Repeal of Rule 12DER08-12, Assessment Increase Limitation Applicability Contained in SB 4D; Application Required by Section 193.1556, F.S., Is Not Required Until March 1, 2009) repeals Rule 12DER08-12. Rule 12DER08-25 (Denials and Late Filed Applications for Transfer of Assessment Limitation Differential (Portability) provides the procedure and forms for applicant taxpayers and property appraisers regarding denials and late applications of portability. For the 2008 assessments, all petitioners for assessment under Section 193.155(8), Florida Statutes, shall be considered to have demonstrated particular extenuating circumstances. Rule 12DER08-26 (Appeals to the Value Adjustment Board of Denials and of Amount of Transfer of Assessment Limitation Difference (Portability)) provides for the applicable forms and the appeal process before the value adjustment board for denials for portability.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULES IS: Renee Harkins, Department of Revenue, Property Tax Technical Unit, 725 S. Calhoun Street, Tallahassee, Florida 32399-0100, telephone (850)414-6104; fax (850)488-9482; email address: harkinre@dor.state.fl.us

THE FULL TEXT OF THE EMERGENCY RULES IS:

12DER08-20 Scope of Emergency Rules 12DER08-21 Through 12DER08-26; How to Obtain Forms.

(1) These rules shall replace Rules 12DER08-07 through 12DER08-10, and shall repeal rule 12DER08-12, which were effective March 25, 2008. Rule 12DER08-11 has not been affected.

(2) These rules shall supersede any existing rule to the contrary to the extent necessary to implement Chapter 2007-339 (Senate Bill 4-D), Laws of Florida, and Chapter 2008-173 (Senate Bill 1588), Laws of Florida.

(3) These rules are to be read in conjunction with applicable statutes and not as a substitute for them. They are designed to assist with the understanding and deployment of the requirements of Chapter 2007-339 (Senate Bill 4-D), Laws of Florida, and Chapter 2008-173 (Senate Bill 1588), Laws of Florida. Users should consult those laws as the source documents that created the legal requirements, and not rely solely on these rules. As provided in Chapter 2007-339 (Senate Bill 4-D), Laws of Florida, these rules are effective retroactive to January 1, 2008, and as provided in Chapter 2008-173 (Senate Bill 1588), Laws of Florida, these rules are applicable to the 2008 tax roll.

(4)(a) Copies of the forms incorporated in Emergency Rules 12DER08-11, 12DER08-21, 12DER08-23, 12DER08-25, and 12DER08-26 may be obtained at the Department's Internet site: <http://dor.myflorida.com/dor/property/sb4d.html>. Copies of the forms incorporated in Emergency Rule 12DER08-22 can be obtained by calling Ed Parker, Property Tax Oversight Program, Florida Department of Revenue, at (850)922-7944.

(b) The Department has also sent an email to all property appraisers telling them that the forms are available on the above Internet site.

Specific Authority Chapter 2007-339, L.O.F. (Senate Bill 4-D), Section 13 of Chapter 2008-173, L.O.F. (Senate Bill 1588) Law Implemented 193.155, 193.1556, 196.031, 196.183 FS. History—New 7-18-08.

12DER08-21 Transfer of Assessment Limitation Difference: "Portability;" Sworn Statement Required.

(1) This rule shall replace Rule 12DER08-08, which was effective March 25, 2008.

(2) Section 193.155(8), Florida Statutes, provides the procedures for the transfer of the assessment limitation difference, within stated limits, when a homestead is abandoned. These rules describe those procedures, which are an alternative to assessment at just value. The transfer of assessment limitation difference is to the just value of the interest owned by those persons that qualify and receive homestead exemption on a new homestead.

(a) These rules set forth limitations and special rules that must be met consistent with Section 193.155(8), Florida Statutes. For 2008, a person may apply for the transfer of a homestead assessment difference from a previous homestead property to a new homestead property if:

1. That person received a homestead exemption on the previous property on January 1, 2007; and

2. The previous property was abandoned as a homestead during 2007 after January 1 and was reassessed at just value as of January 1, 2008; and

3. The new homestead property was assessed at just value without the homestead exemption either because it did not receive a homestead exemption, or the homestead exemption was abandoned, as of January 1, 2008.

(b) Under Section 193.155(8), Florida Statutes, the transfer of an assessment limitation difference is available to a person only from a prior homestead in which that person received a homestead exemption.

1. For a husband and wife who owned, shared and both resided on, a previous homestead, each shall be considered to have received the homestead exemption for purposes of these rules.

2. For joint tenants with right of survivorship, those tenants that applied for and received the homestead exemption, and resided on a previous homestead shall be considered to have received the homestead exemption for purposes of these rules.

3. For tenants in common, those tenants that applied for and received the homestead exemption and resided on a previous homestead shall be considered to have received the homestead exemption for purposes of these rules.

(3) The applicant taxpayer shall file Form DR-501T (Transfer of Homestead Assessment Difference, Attachment to Original Application for Ad Valorem Tax Exemption; N. 01/08) which the Department of Revenue hereby adopts and incorporates in this rule by reference, by March 1. (Note: this date is extended to May 1 for 2008 by Section 14 of Chapter 2008-173 (Senate Bill 1588), Laws of Florida), as an attachment to the homestead exemption application, Form DR-501 (incorporated by reference in Rule 12D-16.002, Florida Administrative Code), to apply for portability. Completing Form DR-501T, including a sworn statement, and Form DR-501 shall be considered sufficient documentation for applying for the transfer. Note: Section 192.047(2), Florida Statutes, provides "When the deadline for filing an ad valorem tax application or return falls on a Saturday, Sunday, or legal holiday, the filing period shall extend through the next working day immediately following such Saturday, Sunday, or legal holiday."

(4)(a) Upsizing – When the just value of the new homestead is equal to or greater than the just value of the previous homestead, the maximum assessment limitation difference that can be transferred is \$500,000. Within that limit, the differential between assessed value and just value can be transferred to the new property, subject also to provisions for multiple owners described below.

(b) Downsizing – When the just value of the new homestead is less than the just value of the previous homestead, the maximum assessment difference that can be transferred is \$500,000. However, within that limit, the transferred assessment difference must be the same proportion of the new homestead's just value as the proportion of the assessment difference of the previous homestead was of the just value of the previous homestead, subject also to provisions for multiple owners described below.

(5)(a) Transferring without splitting or joining – When one or more people who previously owned a single homestead and each received the homestead exemption as described in these rules together qualify for a new homestead, where all persons who qualify for homestead exemption in the new homestead also qualified for homestead exemption in the previous homestead without an additional person qualifying for homestead exemption in the new homestead, the maximum assessment difference that can be transferred is \$500,000. Within that limit, the assessment limitation difference from the

previous homestead may be transferred, and it is not considered to be a splitting or joining as discussed in paragraphs (b) and (c) below. Further, the rules for "upsizing" and "downsizing" as set forth above apply.

(b) Splitting – When two or more people who previously shared a homestead, abandon that homestead and establish separate homesteads, the maximum total limitation that can be transferred from the previous homestead is \$500,000. However, within that limit, each person that received a homestead exemption and who is eligible to transfer an assessment limitation difference is also limited to a share of the previous homestead's difference between assessed value and just value. For tenants in common, this share is equal to the difference between just value and assessed value for the tenant's proportionate interest in the property, in other words, the just value of the person's interest minus the assessed value of the person's interest. For tenancy with right of survivorship, the share is equal to the assessed value of the homestead portion of the property divided by the number of owners that received the exemption, unless another interest share is stated on the title in which case the portion of the assessment limitation difference that may be transferred is equal to the difference between just value and assessed value for the stated share. Within this limit, the rules for "upsizing" and "downsizing" as set forth above would apply. For purposes of the transfer of the assessment limitation difference, the shares of the assessment limitation difference cannot be sold, transferred, or pledged to any person. For example, a husband and wife divorcing and both abandoning the homestead would each take their share of the assessment limitation difference and the property appraiser could not accept a stipulation otherwise. In no case shall the shares of the persons that received the homestead exemption add up to more than 100 percent.

(c) Joining – When two or more people, some of whom previously owned separate homesteads on which they received homestead exemption, join together in qualifying for a new homestead, the maximum assessment limitation difference that can be transferred is \$500,000. However, within that limit, the assessment difference that can be transferred is further limited to the highest difference between assessed value and just value from any of the applicants' former homesteads. Within that limit, the rules for "upsizing" and "downsizing" as set forth above apply.

(6) For the applicant taxpayer to be eligible for any transfer, the prior homestead must be "reassessed" at just value in 2008, either under the "change in ownership" rules of Section 193.155(3), Florida Statutes, or because the property is no longer used as a homestead. After it is assessed at just value, the prior homestead could have some assessment limitation difference transferred to it and be assessed under Section 193.155(8), Florida Statutes. Generally, if all joint owners of the prior homestead "abandon" it, then the prior homestead is

reassessed at just value. However, under the referenced "change in ownership" rules of Section 193.155(3), Florida Statutes, some transfers are not re-assessable events, such as transfers between husband and wife, equitable and legal title, and addition of persons to a title. If only one of the previous homesteaders moved to another parcel and another previous homesteader stayed in the original homestead, the homestead would not be abandoned and the one who moved could not transfer any assessment limitation difference.

(7) Classified use assessment and living quarters for parents and grandparents – The assessment limitation difference that is eligible for transfer under these rules is the amount of difference between assessed value and just value of the portion of the property used as a homestead. This difference is equal to the reduction in value due to Section 193.155, Florida Statutes. For property with both a classified use, such as agricultural, assessment and assessed pursuant to Section 193.155, Florida Statutes, the difference eligible for transfer is equal to the difference between just and assessed value on the homestead portion of the property. No portion of property classified and used for agricultural or other non-homestead purpose may be included in the calculation of the eligible assessment limitation difference under Section 193.155(8), Florida Statutes. In calculating the assessment reduction to be transferred from a prior homestead that has an assessment reduction for living quarters of parents or grandparents pursuant to Section 193.703, Florida Statutes, the value calculated pursuant to Section 193.703(6), Florida Statutes, must first be added back to the assessed value of the prior homestead.

(8) Procedures for property appraiser:

(a) If the previous homestead was located in a different county than the new homestead, the property appraiser in the new county must transmit a copy of the completed Form DR-501T together with a completed Form DR-501 to the property appraiser in the previous county. If the previous homesteads of applicants for transfer were in more than one county, each applicant from a different county must fill out a separate Form DR-501T.

1. The property appraiser in the previous county must complete Form DR-501RVSH (Certificate for Transfer of Homestead Assessment Difference; N. 07/08) which the Department of Revenue hereby adopts and incorporates in this rule by reference, within two weeks of receipt of Form DR-501T, and forward this form to the new property appraiser. As part of the information returned on Form DR-501RVSH, the previous property appraiser shall certify that the homestead assessment difference to be transferred is part of a previous homestead that has been or will be reassessed at just value as of January 1, 2008.

2. Based on the information provided on Form DR-501RVSH from the previous property appraiser, the new property appraiser shall calculate the amount of the assessment

limitation difference that may be transferred and apply such difference to the January 1, 2008 assessment of the new homestead.

3. Upon request of a taxpayer that had timely applied for the transfer of assessment limitation difference, for those previously filed forms DR-501R (Certificate for Transfer of Homestead Assessment Difference; N. 01/08) which the Department of Revenue previously used with emergency rule 12DER08-08, that do not already contain such complete and accurate ownership share information, the property appraiser in the county where the new homestead is located shall resend forms and update the ownership share information using the following procedure. The property appraiser in the county in which the new homestead is located shall resend Form DR-501 and Form DR-501T and send Form DR-501RVSH to the previous county, whose property appraiser shall state the shares on such form including just value and assessed value of the taxpayer's interest in the property for tenants in common, and the share of the ownership for other tenancies if in the property appraiser's records. In cases where the requesting taxpayer receives a greater assessment limitation difference transfer amount, the shares of all other owners shall be adjusted and corrected accordingly. The property appraiser in the county in which the previous homestead is located shall furnish Form DR-501RVSH in lieu of previously furnished Form DR-501R.

(b) If the transfer is requested from the same county in which the new homestead is located the property appraiser shall retain the Form DR-501T and Form DR-501RVSH is not required. Upon request of a taxpayer that had timely applied for the transfer of assessment limitation difference, the property appraiser shall update the ownership share information using the share methodology in this rule.

(c) The property appraiser in the county in which the new homestead is located shall record in the NAL file record, (see Emergency Rule 12DER08-11) the following information for the year in which the transfer is made to the homestead parcel:

1. Flag for current year assessment difference transfer;
2. Number of owners among whom previous assessment difference split. Enter 1 if previous difference was not split;
3. Assessment difference value transferred;
4. County number of previous homestead;
5. Parcel ID of previous homestead;
6. Year from which assessment difference value transferred.

(d) All information sharing agreements in effect in 2007 covering confidential tax information are hereby perpetuated and extended during the period these emergency rules are in effect, and property appraisers having information sharing agreements with the Department are authorized to share confidential tax information with each other pursuant to Section 195.084, Florida Statutes, including social security numbers and linked information on Forms DR-501, DR-501T, and DR-501RVSH.

(9) Documenting changes in the assessment roll due to this provision will necessitate changes to the record layout and the information provided on the Rule 12D-8.013, Florida Administrative Code, NAL file submitted to the Department. See Emergency Rule 12DER08-11.

(10) The transfer of any limitation is not final until any values on the assessment roll on which the transfer is based are final. If such values are final after the procedures in these rules are exercised, the property appraiser(s) shall make appropriate corrections and a corrected tax notice bill shall be sent. Any values that are in administrative or judicial review shall be noticed to the tribunal or court for accelerated hearing and resolution so that the intent of Section 193.155(8), Florida Statutes, may be carried out and fulfilled.

(11) Additional provisions.

(a) If the information from the property appraiser in the county where the previous homestead was located is provided after the procedures in this section are exercised, the property appraiser in the county where the new homestead is located shall make appropriate corrections and a corrected tax notice and tax bill shall be sent.

(b) The property appraiser in the county where the new homestead is located shall promptly notify a taxpayer if the information received, or available, is insufficient to identify the previous homestead and the amount of the assessment limitation difference which is transferable. Such notification shall be sent on or before July 1.

(c) If the property appraiser in the county where the previous homestead was located supplies sufficient information to the property appraiser in the county where the new homestead is located, such information shall be considered timely if provided in time for inclusion on the notice of proposed property taxes sent pursuant to Sections 194.011 and 200.065(1), Florida Statutes.

(d) If the property appraiser has not received information sufficient to identify the previous homestead and the amount of the assessment limitation difference which is transferable before mailing the notice of proposed property taxes, and such amount is not included on such notice, the taxpayer may file a petition with the value adjustment board in the county where the new homestead is located.

Specific Authority Chapter 2007-339, L.O.F. (Senate Bill 4-D), Section 13 of Chapter 2008-173, L.O.F. (Senate Bill 1588) Law Implemented 192.047, 193.114, 193.155, 193.461, 193.703 FS., Section 14 of Chapter 2008-173, L.O.F. (Senate Bill 1588) History—New 7-18-08.

12DER08-22 Tangible Personal Property Exemption.

(1) This rule shall replace Rule 12DER08-09, which was effective March 25, 2008.

(2) For 2008, to apply for the exemption, no new form will be necessary; Form DR-405, Form DR-470, or Form DR-471, (incorporated by reference in Rule 12D-16.002, Florida Administrative Code), if required, will be considered the

application for exemption. Form DR-405EZ (Tangible Personal Property Exemption, Application and Return; N. 02/08) which the Department of Revenue hereby adopts and incorporates in this rule by reference, may be used by property appraisers at their option. Nothing in this rule shall preclude a property appraiser from requiring that Form DR-405 be filed.

(3) For taxpayers who fail to make a complete return and file a return by April 1 or within any applicable extension period, or who late file, the \$25,000 exemption shall not apply; however, at the option of the property appraiser, owners of property previously assessed without a return being filed may qualify for the exemption without filing an initial return. For returns not timely filed and for which the property appraiser does not grant the exemption, the penalties enumerated in Section 193.072, Florida Statutes, are applicable. Note: Section 192.047(2), Florida Statutes, provides “When the deadline for filing an ad valorem tax application or return falls on a Saturday, Sunday, or legal holiday, the filing period shall extend through the next working day immediately following such Saturday, Sunday, or legal holiday.”

(4) Section 196.183(1), Florida Statutes, specifically states that a single return must be filed, and therefore a single exemption granted, for all freestanding equipment not located at the place where the owner transacts business.

(5) “Site where the owner of tangible personal property transacts business.”

(a) The “site where the owner of tangible personal property transacts business” includes facilities where the business ships or receives goods, employees of the business are located, goods or equipment of the business are stored, or goods or services of the business are produced, manufactured, or developed, or similar facilities located in offices, stores, warehouses, plants, or other locations of the business. Sites where only the freestanding property of the owner is located shall not be considered sites where the owner of tangible personal property transacts business.

(b) Example: For a business leasing copying machines or other freestanding equipment, the location where the leased equipment is located does not constitute a site where the owner transacts business. If it is not a site where one or more of the activities stated in paragraph (a) occur, for purposes of the tangible personal property exemption, it is not considered a site where the owner transacts business.

(6) Property Appraiser actions – maintaining assessment roll entry.

(a) For all freestanding equipment not located at a site where the owner transacts business, and for which a single return is required, and for centrally assessed property under Section 193.085, Florida Statutes, the property appraiser is responsible for allocating the exemption to taxing jurisdictions in which freestanding equipment or centrally assessed property is located. Allocation should be based on the proportionate share of the just value of such property in each jurisdiction.

However, the amount of the exemption allocated to each taxing authority may not change following the extension of the tax roll pursuant to Section 193.122, Florida Statutes. All accounts shall be listed on the Rule 12DER08-11 and 12D-8.013, Florida Administrative Code, NAP file submitted to the Department, whether fully exempt or not.

(b) Documenting changes in the assessment roll due to this provision will necessitate changes to the record layout and the information provided on the Rule 12D-8.013, Florida Administrative Code, NAP file submitted to the Department. See Emergency Rule 12DER08-11.

Specific Authority Chapter 2007-339, L.O.F. (Senate Bill 4-D), Section 13 of Chapter 2008-173, L.O.F. (Senate Bill 1588) Law Implemented 192.047, 193.063, 193.072, 193.114, 196.183 FS. History--New 7-18-08.

12DER08-23 Additional Homestead Exemption Pursuant to Section 196.031(1)(b), Florida Statutes; 2008 Tax Year.

(1) This rule shall replace Rule 12DER08-10, which was effective March 25, 2008.

(2) For 2008, to apply for the additional homestead exemption, no new application form will be necessary; Form DR-501, (Original Application for Ad Valorem Tax Exemption; R. 12/07) (incorporated by reference in Rule 12D-16.002, Florida Administrative Code), will be considered the application for exemption.

(3) The additional homestead exemption shall only apply to non-school levies.

(4) Property appraiser actions – Documenting changes in the assessment roll due to this provision will necessitate changes to the record layout and the information provided on the Rule 12D-8.013, Florida Administrative Code, NAP file submitted to the Department. See Emergency Rule 12DER08-11. The property appraiser's programming may use a different approach than that set forth in this rule for exemption ordering as long as such programming achieves the same result as this rule requires.

Specific Authority Chapter 2007-339, L.O.F. (Senate Bill 4-D), Section 13 of Chapter 2008-173, L.O.F. (Senate Bill 1588) Law Implemented 193.114, 196.031, 196.075, 196.082, 196.202 196.24 FS. History--New 7-18-08.

12DER08-24 Repeal of Rule 12DER08-12, Assessment Increase Limitation Applicability Contained in SB 4D; Application Required by Section 193.1556, F.S., Is Not Required Until March 1, 2009.

Rule 12DER08-12, Assessment Increase Limitation Applicability Contained in SB 4D; Application Required by Section 193.1556, F.S., Is Not Required Until March 1, 2009, is hereby repealed.

Specific Authority Chapter 2007-339, L.O.F. (Senate Bill 4-D), Section 13 of Chapter 2008-173, L.O.F. (Senate Bill 1588) Law Implemented 193.1556 FS. History--New 7-18-08.

12DER08-25 Denials and Late Filed Applications for Transfer of Assessment Limitation Differential (Portability).

(1) Denials.

(a) If the taxpayer is not qualified for transfer of any assessment limitation differential, the property appraiser in the county in which the new homestead is located shall send Form DR-490PORT, (Notice of Denial of Transfer of Homestead Assessment Difference; N. 07/08) which the Department of Revenue hereby adopts and incorporates in this rule by reference, by July 1, including the reasons for the denial. Such notice shall be sent on or before July 1.

(b) Any property appraiser that has not received, from the previous property appraiser, information sufficient to identify the previous homestead and the amount of the assessment limitation difference which is transferable, and has sent a notice of denial on or before July 1 may, if information is received from the previous property appraiser and the applicant is qualified, grant the transfer of assessment increase differential and, if a petition was filed based on a timely application for transfer of homestead assessment difference, the value adjustment board shall refund the taxpayer the \$15.

(2) Late applications. Any person who is qualified to have his or her property assessed under Section 193.155(8), Florida Statutes, and who fails to file an application by March 1 (Note: this date is extended to May 1 for 2008 by Section 14 of Chapter 2008-173 (Senate Bill 1588), Laws of Florida), may file an application for assessment under that subsection and may, pursuant to Section 194.011(3), Florida Statutes, file a petition with the value adjustment board requesting that an assessment under Section 193.155(8), Florida Statutes, be granted. Such petition may be filed at any time during the taxable year on or before the 25th day following the mailing of the notice by the property appraiser as provided in Section 194.011(1), Florida Statutes. Notwithstanding Section 194.013, Florida Statutes, such person must pay a nonrefundable fee of \$15 upon filing the petition. Upon reviewing the petition, if the person is qualified to receive the assessment under Section 193.155(8), Florida Statutes, and demonstrates particular extenuating circumstances judged by the property appraiser or the value adjustment board to warrant granting the assessment, the property appraiser or the value adjustment board may grant an assessment under this subsection. For the 2008 assessments, all petitioners for assessment under Section 193.155(8), Florida Statutes, shall be considered to have demonstrated particular extenuating circumstances.

Specific Authority Chapter 2007-339, L.O.F. (Senate Bill 4-D), Section 13 of Chapter 2008-173, L.O.F. (Senate Bill 1588) Law Implemented 193.155, 194.011 FS., Section 14 of Chapter 2008-173, L.O.F. (Senate Bill 1588) History--New 7-18-08.

12DER08-26 Appeals to the Value Adjustment Board of Denials and of Amount of Transfer of Assessment Limitation Difference (Portability).

(1) Appeals.

(a) This rule applies to the review of denials of assessment limitation difference transfers or of the amount of an assessment limitation difference transfer. No adjustment to the just, assessed or taxable value of the previous homestead parcel may be made pursuant to an appeal under this rule.

(b) A taxpayer may file a petition with the value adjustment board, in the county where the new homestead is located, to petition either a denial of a transfer or the amount of the transfer, on Form DR-486PORT (Petition to Value Adjustment Board, Transfer of Homestead Assessment Difference; N. 07/08), which the Department of Revenue hereby adopts and incorporates in this rule by reference. Such petition must be filed within 25 days following the mailing of the notice of proposed property taxes as provided in Section 194.011, Florida Statutes. If only a part of a transfer of assessment increase differential is granted, the notice of proposed property taxes shall function as notice of the taxpayer's right to appeal to the value adjustment board.

(2) The applicant may appeal the decision of the property appraiser refusing to allow the transfer of an assessment difference to the value adjustment board, and the board shall review the application and evidence presented to the property appraiser upon which the applicant based the claim and shall hear the applicant in person or by agent on behalf of his or her right to such assessment. Such appeal shall be heard by an attorney special magistrate if the value adjustment board uses special magistrates. The value adjustment board shall reverse the decision of the property appraiser in the cause and grant assessment under this subsection to the applicant if, in its judgment, the applicant is entitled to be granted the assessment or shall affirm the decision of the property appraiser.

(3) This rule will apply to value adjustment board proceedings in a county in which the previous homestead is located. Any petitioner desiring to appeal the action of a property appraiser in a county in which the previous homestead is located must so designate on Form DR-486PORT.

(a) If the taxpayer does not agree with the amount of the assessment limitation difference for which the taxpayer qualifies as stated by the property appraiser in the county where the previous homestead property was located, or if the property appraiser in that county has not stated that the taxpayer qualifies to transfer any assessment limitation difference, upon the taxpayer filing a petition to the value adjustment board in the county where the new homestead property is located, the clerk of the value adjustment board in that county shall, upon receiving the appeal, send a notice using Form DR-486XCO, (Cross-County Notice of Appeal and Petition, Transfer of Homestead Assessment Difference; N. 07/08) which the Department of Revenue hereby adopts and incorporates in this rule by reference, to the clerk of the value adjustment board in the county where the previous homestead was located, which shall reconvene if it has already adjourned.

(b) Such notice operates as a timely petition in, and creates an appeal to, the value adjustment board in the county where the previous homestead was located of all issues surrounding the previous assessment differential for the taxpayer involved. However, the taxpayer may not petition to have the just, assessed, or taxable value of the previous homestead changed.

(c) The value adjustment board in the county where the previous homestead was located shall set the petition for hearing and notify the taxpayer, the property appraiser in the county where the previous homestead was located, the property appraiser in the county where the new homestead is located, and the value adjustment board in that county, and shall hear the appeal.

(d) The clerk in the county in which the previous homestead was located must note the petition from the county in which the new homestead is located. No filing fee is required. The clerk shall notify each petitioner of the scheduled time of appearance. The notice shall be in writing and delivered by regular or certified U.S. mail or personal delivery so that the notice shall be received by the taxpayer no less than twenty-five (25) calendar days prior to the day of such scheduled appearance. The clerk will have prima facie complied with the requirements of this section if the notice was deposited in the U.S. mail thirty (30) days prior to the day of such scheduled appearance.

(e) Such appeal shall be heard by an attorney special magistrate if the value adjustment board in the county where the previous homestead was located uses special magistrates. The taxpayer may attend such hearing and present evidence, but need not do so. The value adjustment board in the county where the previous homestead was located shall issue a decision and send a copy of the decision to the clerk of the value adjustment board in the county where the new homestead is located.

(f) In hearing the appeal in the county where the new homestead is located, that value adjustment board shall consider the decision of the value adjustment board in the county where the previous homestead was located on the issues pertaining to the previous homestead and on the amount of any assessment reduction for which the taxpayer qualifies. The value adjustment board in the county where the new homestead is located may not hold its hearing until it has received the decision from the value adjustment board in the county where the previous homestead was located.

(4) This rule does not authorize the consideration or adjustment of the just, assessed, or taxable value of the previous homestead property.

Specific Authority Chapter 2007-339, L.O.F. (Senate Bill 4-D), Section 13 of Chapter 2008-173, L.O.F. (Senate Bill 1588) Law Implemented 193.155, 194.011 FS. History—New 7-18-08.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: July 18, 2008

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."

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."

Section V

Petitions and Dispositions Regarding Rule Variance or Waiver

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."

WATER MANAGEMENT DISTRICTS

NOTICE IS HEREBY GIVEN THAT on July 2, 2008, the South Florida Water Management District (District), received a petition for waiver from Green Dadeland Station, Ltd., Application No. 08-0213-1 for utilization of Works or Lands of the District known as the C-2 Canal, Miami-Dade County for the proposed installation of bulk heading and rip-rap protection, bike path and walkways, trees, light poles, benches and trash receptacles within the C-2 rights of way; Section 35, Township 54 South, Range 40 East, Miami-Dade County. The petition seeks relief from subsections 40E-6.011(4) and (6) and paragraph 40E-6.221(2)(j), Florida Administrative Code, which governs placement of permanent and semi-permanent above-ground structures within 40' of top of canal bank and within designated 100' long equipment staging areas within Works or Lands of the District.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Kathie Ruff at (561)682-6320 or email at kruff@sfwmd.gov. The District will accept comments concerning the petition for 14 days from the date of publication of this notice. To be considered, comments must be received by

the end of business on the 14th day at the South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, Attn: Kathie Ruff, Office of Counsel.

NOTICE IS HEREBY GIVEN THAT on July 10, 2008, the South Florida Water Management District (SFWMD) Governing Board has issued an order.

Order No. 2008-327-DAO-ROW grants a waiver under Section 120.542, Florida Statutes, to Michael J. Meives. The petition for waiver was received by the SFWMD on April 24, 2008. Notice of receipt of the petition requesting the waiver was published in the Florida Administrative Weekly, Vol. 34, No. 19, on May 9, 2008. No public comment was received. This Order provides a waiver of the District's criteria to allow an existing dock with walkway and associated facilities including the proposed addition to the existing dock as well as various landscaping features, consisting of steps, walkway, decorative posts, boulders, trees, and plantings within the north right of way of C-17 at the rear of 572 Anchorage Drive; Section 16, Township 42 South, Range 43 East, Palm Beach County. Specifically, the Order grants a waiver from subsections 40E-6.011(4) and (6), and paragraph 40E-6.221(2)(j), Florida Administrative Code, and the Basis of Review for Use or Occupancy of the Works or Lands of the District Permit Applications within the South Florida Water Management District, incorporated by reference in subsection 40E-6.091(1), Florida Administrative Code, which governs the minimum low member elevation of pile-supported docking facilities and the placement of permanent and/or semi-permanent above ground facilities within 40 feet of the top of the canal bank within Works or Lands of the District. Generally, the Order sets forth the basis of the Governing Board decision to grant the waiver, as follows: 1) the facilities will not significantly interfere with the District's current ability to perform necessary construction, alteration, operation and routine maintenance activities; and 2) the Order granting a waiver from the subject rule would prevent Michael J. Meives from suffering a substantial hardship and a violation of the principles of fairness.

A copy of the Order may be obtained by contacting: Kathie Ruff, South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, telephone number (561)682-6320 or by e-mail at kruff@sfwmd.gov.

NOTICE IS HEREBY GIVEN THAT on July 10, 2008, the South Florida Water Management District (SFWMD) Governing Board has issued an order.

Order No. 2008-328-DAO-ROW grants a waiver under Section 120.542, Florida Statutes, to Adam and Lila Smith. The petition for waiver was received by the SFWMD on April 29, 2008. Notice of receipt of the petition requesting the waiver was published in the Florida Administrative Weekly, Vol. 34,