



Florida Department of Revenue
Office of the Executive Director

Jim Zingale
Executive Director

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March 18, 2021

Jamie L. Jackson
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400

Re: Department of Revenue
Rules 12-9.001, .002, .003, .0031, .0032, .004, .0055, .006, .007, and .0077

Dear Ms. Jackson:

This is in response to your letter dated January 11, 2021, providing comments to the above referenced rules.

All rules – Rulemaking Authority

Comment: Please advise as to why the Department has proposed to remove the citation to the rulemaking authority found in section 213.06, F.S., for the rules listed above.

Response: Section 213.06(1), F.S., authorizes the Department to adopt rules to implement provisions of the revenue laws; however, the rulemaking authority in sections 195.002(2) and 195.027(1), F.S., is specific to the Department's oversight and assistance to local government officials administering property tax, including property appraisers and tax collectors. These provisions authorize the Department to establish, by rule, committees on admissions and certification in furtherance of its duty to conduct schools to update assessment and collection skills regarding property tax. The authority granted in section 213.06(1), F.S., to adopt rules to implement revenue laws does not apply to this rule chapter and was removed from the rulemaking authority in Rule Chapter 12-9, F.A.C.

12-9.003(2)

Comment: This subsection references the requirement that an applicant pass "properly" monitored examinations. It does not appear that what constitutes adequate monitoring for meeting this standard is set forth in this rule chapter. *See* § 120.52(8)(d), Fla. Stat. (2020). If the Department intends to require specific elements for monitoring to be considered adequate, those elements should be set forth in rule. Please review and advise.

Response: There are no specific requirements for monitoring an instructional course exam. A Notice of Change published in the *Florida Administrative Register* (Vol. 47, No. 53, pp. 1401-1404) to remove "properly" from the phrase "properly monitored" in subsection 12-9.003(2) and paragraph 12-9.003(3)(b).

12-9.0031(1)(b)

Comment: Regarding the approval of a course, this paragraph states that application for approval is to be considered on a case-by-case basis upon a showing that the course imparts expertise in the relevant field. Subparagraphs (1)(b)1.-2. contain specifics for what constitutes the requisite content for continuing education courses. Are the elements set forth in subsection (1) regarding expertise the standards by which the Department considers applications for other course approvals under paragraph (1)(b)? Please advise.

Response: Yes. A Notice of Change published in the *Florida Administrative Register* (Vol. 47, No. 53, pp. 1401-1404) to paragraph 12-9.0031(1)(b) to provide a course must impart expertise in one of the areas listed in subsection (1) relating to the professional designation of the individual requesting approval of a course.

12-9.0032(2)(b)

Comment: Material that meets the definition of a rule in section 120.52(16), Florida Statutes, should be specifically incorporated by reference in rule. *See also* § 120.54(1)(i), Fla. Stat. (2020), rule 1-1.013, F.A.C. This definition includes, “any form which...solicits any information not specifically required by statute or by an existing rule.” This paragraph references the online process for course registration, which is not currently incorporated by reference. Please review and advise whether this registration process should be incorporated by reference or otherwise set forth by the rule text.

Response: The user’s guide for the Property Tax Oversight Certification and Training Online Registration (copy included) contains screen shots of the online registration system and instructions for using the system. This system provides the user the ability to register for an instructional course or workshop, apply for certification as a Florida professional, annually confirm governmental employment and renew a professional certification, and pay required fees. These requirements are all provided in Rule Chapter 12-9, F.A.C., as proposed. As such, the screen shots of the system and the user’s guide are not a rule, as defined in section 120.52(16), F.S.

12-9.004(3)(a)-(f)

Comment: As these paragraphs pertain specifically to the duties of the chairperson, please consider moving these provisions to rule 12-9.002, which establishes the committees and provisions related to their operations.

Response: Agreed. A Notice of Change published in the *Florida Administrative Register* (Vol. 47, No. 53, pp. 1401-1404) to move the committee chairman duties in subsection 12-9.004(3) to subsection 12-9.002(8).

12-9.007(1)(a) and 12-9.007(1)(b)

Comment: This paragraph references the requirement for recertification that the relevant course be “satisfactorily” completed. Are there elements of completion that must be met for the Department to consider it satisfactorily completed? *See* § 120.52(8)(d), Fla. Stat. (2020). If so, these requirements should be set forth in the rule. Please review and advise.

Response: There are no specific requirements for satisfactorily completing a minimum or designated number of hours of approved courses or continuing educational hours. A Notice of

Change published in the *Florida Administrative Register* (Vol. 47, No. 53, pp. 1401-1404) to remove “satisfactorily” from paragraphs 12-9.007(1)(a) and (b).

12-9.0077(2)(b) and (c)

Comment: Please review whether the references to “professionals” should be to “professional designees” to retain consistency with the defined terminology used throughout the rule chapter.

Response: The references to “professionals” should be corrected to “professional designees.” A Notice of Change published in the *Florida Administrative Register* (Vol. 47, No. 53, pp. 1401-1404) to correct “professional” to “professional designees” in paragraph 12-9.0077(2)(b) and (c).

In response to public comment received and made a part of the rule hearing held January 13, 2021, a Notice of Change to Rules 12-9.001, .002, .003, .0031, .0032, .004, .0055, .006, .007, and .0077, and to proposed Form DR-4001, incorporated by reference in Rule 12D-16.002, F.A.C., were published in the *Florida Administrative Register* (Vol. 47, No. 53, pp. 1401-1405).

A Notice of Public Meeting scheduled for May 5, 2021, to receive public comment on the proposed amendments to Rule Chapter 12-9, F.A.C., and the proposed form changes incorporated by reference in Rule 12D-16.002, F.A.C., published in the *Florida Administrative Register* March 18, 2021 (Vol. 47, No. 53, 1407-1408).

If you have any further questions, please do not hesitate to contact me.

Thank you,



Janet L. Young
Agency Rules Coordinator

Attachment: March 18, 2021, *Florida Administrative Register* (Vol. 47, No. 53, pp. 1401-1408)
Proposed new Form DR-4001, as revised