



**Florida Department of Revenue**  
*Office of the Executive Director*

**Jim Zingale**  
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

September 25, 2020

Kenneth J. Plante, Coordinator  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1400

Attn: Jamie Jackson, Senior Attorney

Re: Florida Department of Revenue Rules 12D-7.004 and 12D-16.002, F.A.C.  
Proposed Rule Amendments

Dear Ms. Jackson:

Please find enclosed information regarding the Department of Revenue's proposed rule amendments for the above-referenced rules. Enclosed is a copy of the Notices of Proposed Rule that was published in the September 24, 2020, edition of the Florida Administrative Register, the Rule Summary, the Facts and Circumstances Justifying Proposed Rule, the Federal Comparison Statement, and the Summary of Rule Development Workshop. All materials (forms) incorporated by reference are also provided for your convenience.

For some of the materials (forms) incorporated by reference, the effective date of the form is not included in the draft copy. The effective dates will be included on the forms when they are certified with the Department of State.

If you need additional information, please do not hesitate to contact me.

Sincerely,

Janet Young  
Agency Rules Coordinator

*on behalf of Janet Young.*

Attachments



## Notice of Proposed Rule

### **DEPARTMENT OF REVENUE**

#### **Property Tax Oversight Program**

RULE NO.: RULE TITLE:

**12D-7.004** Exemption for Certain Permanently and Totally Disabled Veterans and Surviving Spouses of Certain Veterans

**PURPOSE AND EFFECT:** The Florida Second District Court of Appeal, in *Dep't of Revenue v. Bell*, 290 So.3d 1060 (Fla. 2d DCA Feb. 19, 2020), reviewed the statutory requirement for the veteran to be a Florida resident and held that the provision limited and narrowed the class of property owners eligible for the ad valorem tax exemption, and thus the provision is invalid and unenforceable. The purpose of the amendments to paragraph (4)(c) of Rule 12D-7.004, Florida Administrative Code, is to remove the Florida residency requirement for this exemption from the rule. When in effect, the amended rule will reflect the findings of the court regarding this ad valorem tax exemption.

**SUMMARY:** The proposed amendments to Rule 12D-7.004, F.A.C., remove the Florida residency requirement for veterans applying for total relief from homestead exemption and their surviving spouse entitled to the exemption in s. 196.081(4), F.S.

#### **SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for a SERC was triggered under Section 120.541(1), F.S.; and, 2) based on past experiences with activities for providing the public tax information and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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

RULEMAKING AUTHORITY: 195.027(1) FS.

LAW IMPLEMENTED: 196.081, FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mike Cotton, Property Tax Oversight, Department of Revenue, 2450 Shumard Oak Blvd., Tallahassee, Florida 32399-0184, telephone (850)617-8870, email DORPTO@floridarevenue.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

12D-7.004 Exemption for Certain Permanently and Totally Disabled Veterans and Surviving Spouses of Certain Veterans.

(1) This rule applies to the total exemption from taxation of the homestead property of a veteran who was honorably discharged and who has a service-connected total and permanent disability and of surviving spouses of veterans who died from service-connected causes while on active duty as a member of the United States Armed Forces as described in section 196.081, F.S.

(2) through (3) No change.

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

(c) This paragraph shall apply where the veteran died from service-connected causes while on active duty. The surviving spouse is entitled to the exemption if the following conditions are met:

~~1. The veteran was a permanent resident on January 1 of the year in which the veteran died;~~

~~1~~2. The spouse continues to reside on the property and use it as his or her primary residence;

~~2~~3. The spouse does not remarry;

~~3~~4. The spouse holds legal or beneficial title; and,

~~4~~5. The spouse produces the required letter attesting to the service-connected death of the veteran while on active duty.

(5) through (6) No change.

*Rulemaking Authority 195.027(1), ~~213.06(4)~~ FS. Law Implemented 196.081 FS. History—New 10-12-76, Formerly 12D-7.04, Amended 12-27-94, 12-30-97, 12-31-98, Amended \_\_\_\_\_.*

NAME OF PERSON ORIGINATING PROPOSED RULE: Mike Cotton.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 22, 2020

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: August 24, 2020.

STATE OF FLORIDA  
DEPARTMENT OF REVENUE  
PROPERTY TAX OVERSIGHT PROGRAM  
CHAPTER 12D-7, FLORIDA ADMINISTRATIVE CODE  
EXEMPTIONS  
PROPOSED AMENDMENTS TO RULE 12D-7.004, F.A.C.

SUMMARY OF PROPOSED RULE

The proposed amendments to paragraph (4)(c) of Rule 12D-7.004, F.A.C., remove the requirement that a veteran must be a permanent resident on January 1 of the year of the veteran's death to qualify for the total homestead exemption in s. 196.081, F.S. The amended rule will reflect the findings of the Florida Second District Court of Appeal regarding this ad valorem tax homestead exemption.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The Florida Second District Court of Appeal, in *Dep't of Revenue v. Bell*, 290 So.3d 1060 (Fla. 2d DCA Feb. 19, 2020), reviewed the statutory requirement for the veteran to be a Florida resident and held that the provision limited and narrowed the class of property owners eligible for the ad valorem tax exemption, and thus the provision is invalid and unenforceable.

FEDERAL COMPARISON STATEMENT

The provisions contained in these rules do not conflict with comparable federal laws, policies, or standards.

### SUMMARY OF RULE DEVELOPMENT WORKSHOP

A Notice of Proposed Rule Development was published in the Florida Administrative Register on August 24, 2020 (Vol. 46, No. 165, p. 3351), to advise the public of the proposed changes to the rule and to provide that, if requested in writing, and not deemed unnecessary by the agency head a rule development workshop would be noticed in the next available Florida Administrative Register. No request was received, and no workshop was held. No written comments were received by the Department.

### SUMMARY OF GOVERNOR AND CABINET MEETING HELD SEPTEMBER 22, 2020

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 22, 2020, and approved the publication of the Notice of Proposed Rule for Rule 12D-7.004, F.A.C., and approval to file and certify the proposed rule for final adoption if the substance of the rule remains unchanged upon reaching the date applicable to filing for final adoption pursuant to s. 120.54(3)(e)2., F.S. A notice of the public meeting was published in the F.A.R. on September 15, 2020 (Vol. 46, No. 180, pp. 3794-3795).

STATE OF FLORIDA  
DEPARTMENT OF REVENUE  
PROPERTY TAX OVERSIGHT PROGRAM  
CHAPTER 12D-16, FLORIDA ADMINISTRATIVE CODE  
ADMINISTRATION OF FORMS  
PROPOSED AMENDMENTS TO RULE 12D-16.002, F.A.C.

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12D-16.002, F.A.C., incorporate, by reference, the changes to property tax Forms DR-452, DR-486POA, DR-501A, and DR-501TS to remove notarization of the forms which is not specifically required by Florida Statutes. The proposed amendments to Form DR-486POA provides for online notarization as required by section 117.05, F.S. In addition, the proposed revisions to Form DR-452 remove the requirement that the claimant must occupy the property to establish adverse possession of the property as provided in s. 95.18, F.S.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The proposed amendments to Forms DR-452, DR-486POA, DR-501A, and DR-501TS are necessary to remove notarization of the forms which is not specifically required by Florida Statutes. The proposed amendments to Form DR-486POA are necessary to incorporate changes the Florida Legislature enacted in Chapter 2019-71, L.O.F., which amended Chapter 117, F.S., to authorize public notaries to perform notarial acts using electronic means in which the principal appears before the notary public by means of audio-video communication technology.

## FEDERAL COMPARISON STATEMENT

The provisions contained in these rules do not conflict with comparable federal laws, policies, or standards.

## SUMMARY OF RULE DEVELOPMENT WORKSHOP

A Notice of Proposed Rule Development was published in the *Florida Administrative Register* on August 26, 2020 (Vol. 46, No. 167, pp. 3389-3390), to advise the public of the proposed changes to the rule and to provide that, if requested in writing, and not deemed unnecessary by the agency head a rule development workshop would be noticed in the next available *Florida Administrative Register*. No request was received, and no workshop was held. No written comments were received by the Department.

## SUMMARY OF GOVERNOR AND CABINET MEETING HELD SEPTEMBER 22, 2020

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 22, 2020, and approved the publication of the Notice of Proposed Rule for Rule 12D-16.002, F.A.C., and approval to file and certify the proposed rule for final adoption if the substance of the rule remains unchanged upon reaching the date applicable to filing for final adoption pursuant to s. 120.54(3)(e)2., F.S. A notice of the public meeting was published in the F.A.R. on September 15, 2020 (Vol. 46, No. 180, pp. 3794-3795).



## Notice of Proposed Rule

### **DEPARTMENT OF REVENUE**

#### **Property Tax Oversight Program**

RULE NO.: RULE TITLE:

[12D-16.002](#) Index to Forms

**PURPOSE AND EFFECT:** The purpose of the proposed revisions to Forms DR-452, DR-501A and DR-501TS used for property tax oversight is to remove the notarization requirement unless specifically required by Florida law and to provide for verification using sworn statements. In addition, proposed revisions to Form DR-452 are also necessary to remove the requirement that the claimant must occupy the property in order to establish adverse possession of the property as provided in section. 95.18, F.S.

Chapter 2019-71, L.O.F., authorized public notaries to perform notarial acts using electronic means in which the principal appears before the notary public by means of audio-video communication technology. The purpose of the proposed revisions to Form DR-486POA is to incorporate updates to provide for online notarization.

The purpose of the proposed amendments to Rule 12D-16.002, F.A.C., is to incorporate, by reference, the revised forms. When in effect, the amendments will reduce taxpayer burden by eliminating the requirement for forms to be notarized, unless specifically required by Florida law, and by providing for online notarization when notarization is required by Florida law.

**SUMMARY:** Revisions to provide for electronic notarization of Form DR-486POA, and to eliminate the notarization requirement in Forms DR-452, DR-501A and DR-501TS.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for a SERC was triggered under Section 120.541(1), F.S.; and, 2) based on past

experiences with activities for providing the public tax information and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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

**RULEMAKING AUTHORITY:** 195.027(1) FS.

**LAW IMPLEMENTED:** 95.18, 136.03, 192.001(18), 192.0105, 193.052, 193.077, 193.085, 193.092, 193.114, 193.122, 193.155, 193.1554, 193.1555, 193.1556, 193.461, 193.501, 193.503, 193.625, 193.703, 194.011, 194.032, 194.034, 194.035, 194.037, 195.002, 195.022, 195.087, 196.011, 196.015, 196.031, 196.075, 196.095, 196.101, 196.121, 196.141, 196.151, 196.173, 196.183, 196.193, 196.1961, 196.1983, 196.1995, 196.202, 196.24, 196.26, 197.182, 197.222, 197.2423, 197.2425, 197.318, 197.3632, 197.3635, 197.414, 197.432, 197.472, 197.502, 197.512, 197.552, 200.065, 200.069, 218.12, 218.125, 218.131, 218.66, 218.67 FS.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.**

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Mike Cotton, Property Tax Oversight, Department of Revenue, 2450 Shumard Oak Blvd., Suite 2-3200, Tallahassee, Florida 32399-0184, telephone: (850)617-8870, email: [DORPTO@floridarevenue.com](mailto:DORPTO@floridarevenue.com).

THE FULL TEXT OF THE PROPOSED RULE IS:

12D-16.002 Index to Forms.

(1) The following paragraphs list the forms adopted by the Department of Revenue. A copy of these forms may be obtained from the Department's website at <http://floridarevenue.com/property/>, or by writing to: Property Tax Oversight Program, Department of Revenue, Post Office Box 3000, Tallahassee, Florida 32315-3000. The Department of Revenue adopts, and incorporates by reference in this rule, the following forms and instructions:

Form Number	Title	Effective Date
(2) through (15)	No change.	
(16) DR-452	Return of Real Property in Attempt to Establish Adverse Possession Without Color of Title (r. ____ <del>2/12</del> ) <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-__01765">http://www.flrules.org/Gateway/reference.asp?No=Ref-__01765</a>	____ <del>11/12</del>
(17) through (26)(c)	No change.	
(d) DR-486POA	Power of Attorney for Representation Before the Value Adjustment Board (r. ____ <del>n-01/17</del> ) <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-__07713">http://www.flrules.org/Gateway/reference.asp?No=Ref-__07713</a>	____ <del>01/17</del>
(e) through (39)(a)	No change.	
(b) DR-501A	Statement of Gross Income (r. ____ <del>11/12</del> ) <a href="https://www.flrules.org/Gateway/reference.asp?No=Ref-__01793">https://www.flrules.org/Gateway/reference.asp?No=Ref-__01793</a>	____ <del>11/12</del>
(c) through (i)	No change.	
(j) DR-501TS	Designation of Ownership Shares of Abandoned Homestead (r. ____ <del>n-9/15</del> ) <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-__05793">http://www.flrules.org/Gateway/reference.asp?No=Ref-__05793</a>	____ <del>9/15</del>

(40) through (61) No change.

*Rulemaking Authority 195.027(1), ~~213.06(1)~~ FS. Law Implemented ~~92.525, 95.18, 136.03, 192.001(18), 192.0105, 193.052, 193.077, 193.085, 193.092, 193.114, 193.122, 193.155, 193.1554, 193.1555, 193.1556, 193.461, 193.501, 193.503, 193.625, 193.703, 194.011, 194.032, 194.034, 194.035, 194.037, 195.002, 195.022, 195.087, 196.011, 196.015, 196.031, 196.075, 196.095, 196.101, 196.121, 196.141, 196.151, 196.173, 196.183, 196.193, 196.1961, 196.1983, 196.1995, 196.202, 196.24, 196.26, 197.182, 197.222, 197.2423, 197.2425, 197.318, 197.3632, 197.3635, 197.414, 197.432, 197.472, 197.502, 197.512, 197.552, 200.065, 200.069, ~~213.05, 213.057~~, 218.12, 218.125, 218.131, 218.66, 218.67 FS. History--New 10-12-76, Amended 4-11-80, 9-~~*

*17-80, 5-17-81, 1-18-82, 4-29-82, Formerly 12D-16.02, Amended 12-26-88, 1-9-92, 12-10-92, 1-11-94, 12-27-94, 12-28-95, 12-25-96, 12-30-97, 12-31-98, 2-3-00, 1-9-01, 12-27-01, 1-20-03, 1-26-04, 12-30-04, 1-16-06, 10-2-07, 3-30-10, 11-1-12, 9-10-15, 4-5-16, 6-14-16, 1-9-17, 9-19-17, 1-17-18, 4-10-18, 9-17-18, 7-9-19,\_\_\_\_\_.*

NAME OF PERSON ORIGINATING PROPOSED RULE: Mike Cotton.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: 09/22/2020

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: August 26, 2020.



# RETURN OF REAL PROPERTY IN ATTEMPT TO ESTABLISH ADVERSE POSSESSION WITHOUT COLOR OF TITLE

Section 95.18, Florida Statutes

DR-452  
R. xx/xx  
Rule 12D-16.002  
F.A.C.  
Effective xx/xx

## THIS RETURN DOES NOT CREATE ANY INTEREST ENFORCEABLE BY LAW IN THE DESCRIBED PROPERTY

For residential structures, a person who occupies or attempts to occupy a residential structure solely by claim of adverse possession prior to making a return, commits trespass under s. 810.08, F.S. A person who occupies or attempts to occupy a residential structure solely by claim of adverse possession and offers the property for lease to another commits theft under s. 812.014, F.S.

### COMPLETED BY ADVERSE POSSESSION CLAIMANT

The person claiming adverse possession (claimant) must file this return with the property appraiser in the county where the property is located as required in s. 95.18(1), F.S.

Name of claimant(s)			
Mailing address	Phone		
	Parcel ID, if available		
	<input type="checkbox"/> the property claimed is only a portion of this parcel ID		

Date of filing		Date claimant entered into possession of property	
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Legal description of property claimed Fields will expand online, or you may add pages.  
Must be full and complete. If the property appraiser cannot identify the property from the legal description, you may be required to obtain a survey.

This property has been: (Check all that apply.)	<input type="checkbox"/> protected by substantial enclosure	<input type="checkbox"/> cultivated, maintained, or improved in a usual manner
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Describe your use of the property, in detail below.

Dates of payments of any outstanding taxes or liens levied by the state, county or municipality:

UNDER PENALTY OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING RETURN AND THAT THE FACTS STATED IN IT ARE TRUE AND CORRECT. I FURTHER ACKNOWLEDGE THAT THE RETURN DOES NOT CREATE ANY INTEREST ENFORCEABLE BY LAW IN THE DESCRIBED PROPERTY.

Signature of claimant(s)		
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### COMPLETED BY PROPERTY APPRAISER

Received in the office of the property appraiser of \_\_\_\_\_ County, Florida, on \_\_\_\_\_.  
A signed copy of this return has been delivered to the claimant(s). A copy will be sent to the owner of record.

\_\_\_\_\_  
Signature, property appraiser or deputy

\_\_\_\_\_  
Date

### TO THE OWNER OF RECORD

A tax payment made by the owner of record before April 1 the year after the taxes were assessed will have priority over a payment made by the claimant. An adverse possession claim will be removed if the owner of record or tax collector furnishes a receipt to the property appraiser showing payment of taxes by the owner of record, during the period of the claim. (S. 95.18, F.S.)

This return is a public record and may be inspected by any person under s. 119.07, F.S.







# STATEMENT OF GROSS INCOME

DR-501A  
R. xx/xx  
Rule 12D-16.002  
F.A.C.  
Effective xx/xx

Section 196.101(4)(c), Florida Statutes

Date \_\_\_\_\_

Applicants for the Exemption for Totally and Permanently Disabled Persons, Section 196.101, F.S., must complete, sign, and attach this statement to the exemption application, Form DR-501.

Applicant name		Address of homestead	
Parcel ID			
Name of all other persons living at the homestead			
1.		5.	
2.		6.	
3.		7.	
4.		8.	

Gross Income: Include the incomes of all persons above. Attach last year's Federal Income Tax Returns and Wage and Income Statements (W-2) for all persons above.

HOUSEHOLD GROSS INCOME FOR THE YEAR 20__			
Earned income		Social security benefits	
Income from investments		Veterans Administration benefits	
Gains from disposition of appreciated property		Income from retirement plans	
		Pensions	
Interest		Trusts	
Rents		Estates	
Royalties		Inheritances	
Dividends		Direct and indirect gifts	
Annuities		Other, specify:	
<b>TOTAL GROSS INCOME</b>			

Under penalties of perjury, I declare that I have read this Statement of Gross Income, including the attached documents, and that the facts stated in it are true.

\_\_\_\_\_  
Signature, applicant

Add pages, if needed.



## DESIGNATION OF OWNERSHIP SHARES OF ABANDONED HOMESTEAD

DR-501TS  
R. xx/xx  
Rule 12D-16.002, F.A.C.  
Eff. xx/xx

Section 193.155(8), Florida Statutes

File this form if you and your spouse (or former spouse) are current or former joint owners of qualifying property and want to designate shares of the homestead assessment difference. The designated shares can transfer to each of your new homesteads when you each apply for the homestead exemption on your properties.

Before either of you submits a Form DR-501T, Transfer of Homestead Assessment Difference, for a new homestead, submit this form to the property appraiser in the county where the abandoned homestead is located. If you apply for a new homestead exemption and want to transfer your designated share of the homestead assessment difference, attach a copy of this statement to your completed Form DR-501T in the county where the new homestead is located. Percentages must total 100 percent.

Abandoned Homestead			
County		Address	
Parcel ID			
Date abandoned			
Spouse 1 name as it appears on the joint title	Designated % ownership	Spouse 2 name as it appears on the joint title	Designated % ownership

At the time the homestead was abandoned, we were married and jointly owned this property.

We designate the percentages above to each owner for transferring the homestead assessment difference when that owner establishes a new homestead.

We understand that when we file this designation with the property appraiser, it is irrevocable.

Under penalties of perjury, I declare that I have read the foregoing Designation and that the facts stated in it are true.	Under penalties of perjury, I declare that I have read the foregoing Designation and that the facts stated in it are true.
<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Spouse 1 signature	<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Spouse 2 signature