



Florida Department of Revenue
Office of the Executive Director

Jim Zingale
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

October 23, 2020

Mr. Ernie Reddick
Florida Department of State
R.A. Gray Building, Mail Station 22
500 S. Bronough Street
Tallahassee, Florida 32399-0250

Re: Certification of Department of Revenue Rule 12D-7.004, F.A.C.

Dear Mr. Reddick,

The Department of Revenue, Property Tax Oversight Program, presents the enclosed rule for certification. The contact information as requested in 1-1.010(1)(a), FAC., is as follows:

Janet Young 850-717-6536

Janet.Young@floridarevenue.com

Physical address:
2450 Shumard Oak Blvd,
Rm 1-1625,
Tallahassee, FL 32399

Mailing address:
5050 West Tennessee Street,
Rm 1-1625,
Tallahassee, FL 32399-0126

Sincerely,

Janet Young
Agency Rules Coordinator

Attachments

CERTIFICATION OF DEPARTMENT OF REVENUE
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

(2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

(a) Are filed not more than 90 days after the notice; or

(b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

(i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the ombudsman in the Executive Office of the Governor.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No(s).

12D-7.004

Under the provision of Section 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective Date: _____
(month) (day) (year)


Andrea Moreland

Deputy Executive Director
Title

1
Number of Pages Certified

CERTIFICATION OF DEPARTMENT OF STATE
DESIGNATION OF RULE THE VIOLATION OF WHICH IS A MINOR VIOLATION

Pursuant to Section 120.695(2)(c)3, Florida Statutes, I certify as agency head, as defined by section 20.05(1)(b), Florida Statutes, that:

All rules covered by this certification are not rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.

The following parts of the rules covered by this certification have been designated as rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.:

Rule No(s).

None

Rules covered by this certification:

Rule No(s).

12D-7.004, F.A.C.



Signature of Agency Head

Executive Director

Title

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-7, FLORIDA ADMINISTRATIVE CODE
EXEMPTIONS
AMENDING RULE 12D-7.004

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 (4)(b) No change.

(4)(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;~~

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

23. The spouse does not remarry;

34. The spouse holds legal or beneficial title; and,

45. 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(1)~~ 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, 11-12-20.

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 this rule does 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 PUBLIC MEETING

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 changes to Rule 12D-7.004, F.A.C., as well as approval to file and certify the Secretary of State adoption pursuant to s. 120.54(3)(e)1., F.S., 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 for the public hearing was published in the *Florida Administrative Register* on September 15, 2020 (Vol. 46, No. 180, pp. 3794-3795).

SUMMARY OF RULE HEARING

A Notice of Proposed Rule was published in the *Florida Administrative Register* on September 24, 2020 (Vol. 46, No. 187, pp. 3983-3984), to advise the public of the proposed changes to Rule 12D-7.004, F.A.C., and to provide that, if requested in writing within 21 days of the date of the notice, a rule hearing would be scheduled and announced in the *Florida Administrative Register*. No request was received, and no hearing was held. No written comments were received by the Department.

No substantive changes were made to Rule 12D-7.004, F.A.C., after the Cabinet meeting on September 22, 2020, where the Governor and Cabinet approved the publication of the Notice of Proposed Rulemaking and subsequent adoption of the proposed rules if the substance of the proposed rule remained unchanged upon reaching the date applicable to filing for final adoption pursuant to s. 120.54(3)(e)2., F.S.