



Florida Department of Revenue
Office of the Executive Director

Jim Zingale
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

November 22, 2019

Mr. Ernie Reddick, Chief
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 Rules

Dear Mr. Reddick:

The following Department of Revenue Rule is presented for certification:

Rule 12B-4.013

The following persons may be contacted regarding these rule certifications:

Danielle Boudreaux 717-7082 danielle.boudreaux@floridarevenue.com

Florida Department of Revenue
Building One, Room 2600
2450 Shumard Oak Blvd.
Tallahassee, Florida 32399-0100

Sincerely,

Janet Young
Agency Rules Coordinator

Attachments

FILED
2019 NOV 22 AM 9:24
TALLAHASSEE, FLORIDA

FILED

2019 NOV 22 AM 9:25

DEPARTMENT OF REVENUE
TALLAHASSEE, FLORIDA

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

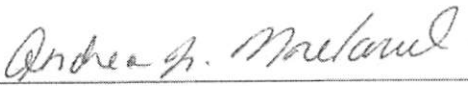
undersigned agency by and upon their filing with the Department of State.

Rule No(s).

12B-4.013

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: January 1, 2020
(month) (day) (year)



Signature, Person Authorized to Certify Rules

Deputy Executive Director

Title

2

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 minor violation pursuant to Section 120.695, F.S.

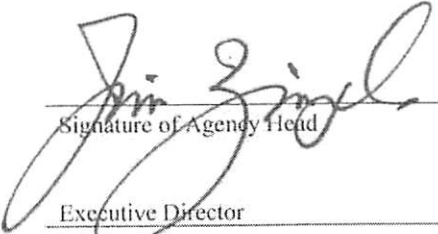
☐ The following parts of the rules covered by this certification have been designated as rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.:

Rule No(s).

Rules covered by this certification:

Rule No(s).

12B-4.013



Signature of Agency Head

Executive Director

Title

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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

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CLERK OF THE CIRCUIT COURT
TALLAHASSEE, FLORIDA

12B-4.013 Conveyances Subject to Tax.

(1) through (26) No change.

(27) Deeds Between Spouses. Husband and Wife Deeds:

(a) A deed that transfers any interest in Florida real property between spouses is taxable based on the consideration for the property interest transferred. When the property is encumbered, the consideration includes the mortgage balance in proportion to the interest transferred. Deeds transferring unencumbered property between spouses are not taxable, except that any consideration paid by one spouse to the other spouse for additional shares greater in value than their undivided interest is taxable. Where the property is encumbered, tax is based on the mortgage balance in proportion to the interest transferred by the grantor.

(b) No ~~However, no~~ tax is due on a deed that transfers the marital home, or an interest therein, between spouses or former spouses pursuant to an action for dissolution of marriage when the transfer is made at the time of or following ~~executed on or after July 1, 1997, between spouses or former spouses at the time of divorce.~~ This exemption does not apply to any transfer of real property other than the marital home. For the purpose of this rule, The marital home means the primary residence of the married couple. Thus, for example, a document that conveys any interest in another residence or investment property is taxable. Tax is due on a deed that transfers the marital home, or an interest therein, between spouses when the transfer is made ~~The tax should be paid on any real property transfers recorded prior to the final dissolution of the marriage divorce decree. Tax paid on such deed~~ After July 1, 1997, an application for refund must be filed within one year prior to the final dissolution of the marriage may be refunded. ~~of the final divorce decree to request the tax paid on a deed that conveyed the marital home.~~ To request a refund, a completed Form DR-26, Application for Refund, must be submitted with proof of payment of the tax, including a copy of the final divorce decree. Proof that the real property was the marital home is also required.

(c) No tax is due on a deed that transfers any interest in homestead property between spouses, when the only consideration for the transfer is the amount of a mortgage or other lien encumbering the homestead property at the time of the transfer. When there is consideration other than a mortgage or other lien encumbering the homestead property, tax is due on the total consideration including any mortgages or liens encumbering the property at the time of the transfer. For the purpose of this paragraph, the term "homestead property" has the same meaning as the term "homestead" as defined in s. 192.001, F.S., and s. 6(a), Art. VII of the State Constitution.

(28) No change.

Rulemaking Authority 201.11, 213.06(1) FS. Law Implemented 201.01, 201.02 FS. History—New 8-18-73, Formerly 12A-4.13, Amended 12-11-74, 2-21-77, 5-23-77, 12-26-77, 7-3-79, 9-16-79, 11-29-79, 3-27-80, 12-23-80, 12-30-82, Formerly 12B-4.13, Amended 12-5-89, 6-4-90, 2-13-91, 2-16-93, 10-18-94, 12-30-97, 7-28-98, 1-4-01, 5-4-03, 4-5-07, 7-30-13, 1-1-20.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12B-4, FLORIDA ADMINISTRATIVE CODE
DOCUMENTARY STAMP TAX
AMENDING RULE 12B-4.013

FILED
2019 NOV 22 AM 9:25
TALLAHASSEE, FLORIDA

SUMMARY OF PROPOSED RULE

The proposed amendments update and remove obsolete language and remove the exemption requirement that a deed or other instrument that transfers homestead property between spouses must be recorded within one year after the date of marriage.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

The purpose of the proposed amendments to Rule 12B-4.013, F.A.C., is to implement statutory changes required by Section 4, Chapter 2019-42, L.O.F., as well as remove obsolete language.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

September 4, 2019

A Notice of Proposed Rule Development was published in the *Florida Administrative Register* on August 21, 2019 (Vol. 45, No. 163, p. 3743), to advise the public of the proposed changes to Rule 12B-4.013, F.A.C., and to provide that, if requested in writing, a rule development workshop would be held on September 4, 2019. No request was received, and no workshop was held. No written comments were received by the Department.

SUMMARY OF PUBLIC MEETING

September 24, 2019

The Governor and Cabinet, sitting as head of the Department of Revenue, met on September 24, 2019, and approved the publication of the Notice of Proposed Rule for the proposed changes to Rule 12B-4.013, F.A.C. A notice for the public meeting was published in the *Florida Administrative Register* on September 16, 2019 (Vol. 45, No. 180, p. 4096).

SUMMARY OF RULE HEARING

October 16, 2019

A Notice of Proposed Rule was published in the *Florida Administrative Register* on September 25, 2019 (Vol. 45, No. 187, p. 4218-4219), to advise the public of the proposed changes to Rule 12B-4.013, F.A.C., and to provide that, if requested in writing, a rule hearing would be held on October 16, 2019. No request was received, and no hearing was held. No written comments were received by the Department.

A comment of a technical nature was received from the staff of the Joint Administrative Procedures Committee. A Notice of Correction was published in the *Florida Administrative Register* on October 24, 2019 (Vol. 45, No. 207, p. 4728), providing the requested correction. The correction to Rule 12B-4.013, F.A.C., identified the inadvertent omission of the rule title from the body of the rule text in the Notice of Proposed Rule. The final rule language presented for adoption today reflects these changes.

No substantive changes were made to Rule 12B-4.013, F.A.C., after the Cabinet meeting on September 24, 2019, 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 rules [including materials incorporated by reference, if any] remained unchanged upon reaching the date applicable to filing for final adoption pursuant to s. 120.54(3)(e)2., F.S.