

AGENDA
FLORIDA DEPARTMENT OF REVENUE

Meeting Material Available on the web at:
<http://dor.myflorida.com/dor/opengovt/meetings.html>

MEMBERS

Governor Charlie Crist
Attorney General Bill McCollum
Chief Financial Officer Alex Sink
Commissioner Charles Bronson

February 24, 2010

Contact: Robert Babin
(850- 487-1453)

9:00 A.M.
LL-03, The Capitol
Tallahassee, Florida

ITEM	SUBJECT	RECOMMENDATION
1.	Respectfully request approval of the minutes of December 8, 2009. (ATTACHMENT 1)	RECOMMEND APPROVAL
2.	Respectfully request approval and authority to publish a Notice of Proposed Rule in the Florida Administrative Weekly to administratively implement a state statute that requires the Department to establish procedures a person can use to file a written challenge to a notice the Department issued the person concerning the failure to register a business for sales and use tax purposes. <i>[Rule 12A-1.060, Florida Administrative Code (F.A.C.)]</i> (ATTACHMENT 2)	RECOMMEND APPROVAL
3.	Respectfully request adoption and approval to file and certify with the Secretary of State under Chapter 120, Florida Statutes, proposed rule provisions concerning the statutory requirement that the Department provide statewide uniform rules and procedures that apply to all participants in value adjustment board proceedings. <i>[New Rule Chapter 12D-9, Partial Repeal of Rules in Rule Chapter 12D-10, and Amendments to Rule 12D-16.002, F.A.C.]</i> (ATTACHMENT 3)	RECOMMEND APPROVAL

**MEETING OF THE GOVERNOR AND CABINET
AS HEAD OF THE DEPARTMENT OF REVENUE**

December 8, 2009

MINUTES

With Governor Crist presiding and all members present, the Department of Revenue was convened in LL-03, The Capitol.

The following official actions were taken.

- ITEM 1.** Approved the minutes of November 17, 2009.
- ITEM 2.** Approved and granted authority to publish a Notice of Proposed Rule in the Florida Administrative Weekly to provide that, pursuant to recent changes to the Administrative Procedure Act, the Governor and Cabinet acting as the agency head of the Department must consider, during a public meeting, the following rule actions: a) publication of a notice of proposed rule; and, b) filing and certification of approved rules with the Department of State:
[Rule 12-3.007, Florida Administrative Code (F.A.C.)]
- ITEM 3.** Approved and granted authority to publish a Notice of Proposed Rule in the Florida Administrative Weekly to remove property tax provisions concerning value adjustment board hearing procedures in existing Rule Chapter 12D-10, F.A.C., to conform this chapter to provisions being proposed in new Rule Chapter 12D-9, F.A.C.:
[Rules 12D-10.001, 12D-10.002, 12D-10.003, 12D-10.004, 12D-10.0044, 12D-10.005, and 12D-10.006, F.A.C.]
- ITEM 4.** Approved and granted authority to publish a Notice of Proposed Rule in the Florida Administrative Weekly for the following general tax rule issues:
- Delegation of Authority
- Proposed rule to require written agreements when the amount of an assessment of tax, penalty, or interest that is compromised exceeds \$30,000.
[Rule 12-13.009, F.A.C.]

ATTACHMENT # 1

Sales and Use Tax

Proposed rules to: a) remove provisions concerning an exemption for admissions to certain events based on expiration of the statutory provision for the exemption; and, b) conform to a streamlined, on-line application process established by the Office of Film and Entertainment for production film companies to qualify for sales and use tax exemptions.

[Rules 12A-1.005, 12A-1.085, and 12A-1.097, F.A.C.]

Insurance Premium Tax and Corporate Income Tax—Credits For Contributions to Nonprofit Scholarship Funding Organizations

Proposed rules to administratively implement recent statute changes regarding the tax credits for: a) Florida Alternative Minimum Tax; and, b) Contributions to Nonprofit Scholarship Funding Organizations.

[Rules 12B-8.001, 12C-1.0186, 12C-1.0187, and 12C-1.051, F.A.C.]

Corporate Income Tax—Renewable Energy

Proposed rules to provide taxpayers information on how to apply for and receive the following tax credits, and to administratively implement procedures for transferring these credits to another taxpayer: a) Capital Investment tax credit; b) Renewable Energy Technologies tax credit; and, c) Renewable Energy Production tax credit.

[Rules 12C-1.0191, 12C-1.0192, 12C-1.0193, and 12C-1.051, F.A.C.]

Corporate Income Tax—Signing and Verification

Proposed rule amendments to establish how a tax return preparer will make the required statutory declaration that they have prepared the return using all information of which they have knowledge, in cases where the return is submitted electronically.

[Rule 12C-1.0221, F.A.C.]

- ITEM 5.** Approved and granted authority to file and certify with the Secretary of State Under Chapter 120, Florida Statutes, new and amended child support enforcement rules to provide procedures for processing unidentifiable collections, and to administer implementation of recent federal and state law changes concerning IRS tax refund offset and passport denial procedures:

[Rules 12E-1.0052 and 12E-1.014, F.A.C.]

- ITEM 6.** Approved and granted authority to file and certify with the Secretary of State Under Chapter 120, Florida Statutes, amendments to state tax rules that adopt forms that will be used by businesses in calendar year 2010 to submit taxes, fees, surcharges, and associated information:

[Rules 12A-1.097, 12A-13.002, 12A-16.008, 12A-17.005, 12A-19.100, 12B-4.003, 12B-5.150, 12B-7.004, 12B-7.008, 12B-7.026, 12B-8.003, 12C-1.051, and Rule 12C-2.0115, F.A.C.]

February 11, 2010

MEMORANDUM

TO: The Honorable Charlie Crist, Governor
Attention: Pat Gleason, Director of Cabinet Affairs

The Honorable Bill McCollum, Attorney General
Attention: Rob Johnson, Cabinet Affairs

The Honorable Alex Sink, Chief Financial Officer
Attention: Robert Tornillo, Chief Cabinet Aide
Amber Hughes, Cabinet Aide

The Honorable Charles Bronson, Agriculture Commissioner
Attention: Jim Boxold, Chief Cabinet Aide
Cathy Giordano, Cabinet Aide

FROM: Robert Babin, Director of Legislative and Cabinet Services

SUBJECT: Rulemaking—Proposed Rule on Sales and Use Tax

What is the Department Requesting? Approval to publish a Notice of Proposed Rule to schedule public hearings for the next stage of rulemaking for proposed sales and use tax rules.

Why are These Proposed Rules Necessary? To administratively implement a state statute that requires the Department to establish procedures a person can use to challenge a notice the Department has issued concerning the failure to register a business for sales and use tax.

What Do These Proposed Rules Do? These proposed rules establish procedures a person can use to challenge a notice from the Department concerning a failure to register, including:

- A requirement that the person's written challenge must be filed with the Department within 30 days of the date of the notice;
- What information must be included in the person's written challenge;
- How the Department will grant a 15-day extension in which to submit a challenge;
- Provisions under which a person waives their right to challenge the notice, based on a failure to timely submit a challenge or to request an extension of time in which it can be submitted;
- The Department's responsibility to issue a written response to a timely filed, complete challenge; and,
- What penalties are imposed by law for failure to register after the person has waived their right to challenge the notice, or, a final determination regarding the challenge is made.

ATTACHMENT #2

Memorandum
February 11, 2010
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Were Comments Received from External Parties? The Department published a Notice of Proposed Rule Development in the Florida Administrative Weekly on November 13, 2009. This notice stated that, if requested, the Department would hold a rule development workshop on December 1, 2009. No request for a workshop was received, and no written comments have been submitted.

Are There Significant Administrative Issues in These Rules? No.

Attached are copies of:

- Summary of the proposed rule
- Statement of facts and circumstances justifying the rule
- Federal relation statement
- Summary of workshop
- Proposed Notice of Proposed Rule with proposed rule text

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE

SALES AND USE TAX

AMENDING RULE 12A-1.060

SUMMARY OF PROPOSED RULE

The proposed amendments to Rule 12A-1.060, F.A.C. (Registration): (1) provide that when a person conducting business in Florida fails or refuses to register, the Department will issue a written notice to alert that person of the requirement to register; (2) provide that to challenge the notice issued by the Department, a written challenge must be filed within 30 days of the date of the notice; (3) specify the criteria for what must be contained within a written challenge and how to file the challenge with the Department; (4) provide when the Department will authorize an extension period of 15 calendar days within which to file a written challenge to the notice; (5) provide that any person who fails to timely request an extension of time to file a challenge to the Department's notices, or who fails to timely file a challenge, will result in forfeiture of the person's right to challenge the notice issued by the Department; (6) provide that the Department will issue a response to a timely-filed written challenge to the notice; (7) provide that a \$100 registration fee will be imposed upon any person who waives the right to file a written challenge to the notice, who fails to timely file a written challenge to the notice, or who fails or refuses to register after the Department has issued a response to a challenge determining that the person is required to register; and (8) provide that these procedures are for investigative purposes, as provided in section 120.57(5), F.S.

FACTS AND CIRCUMSTANCES JUSTIFYING PROPOSED RULE

Section 212.12(2)(d), F.S., as amended by section 25, Chapter 2007-106, L.O.F., provides that any person who, after written notice issued by the Department, intentionally fails to register the business with the Department, is liable for a specific penalty of 100 percent of any unreported or any uncollected tax or fee. The person who has received such written notice may file a written challenge to the notice in accordance with the procedures established by the Department. The purpose of this rulemaking is to provide for issuance of a notice alerting a person of the requirement to register his or her business and the procedures by which that person may timely file a written challenge to such notice. The effect of this rulemaking is to inform taxpayers of the Department's procedures for imposing the penalties for failure to register after written notice has been issued by the Department and the procedures for timely filing a written challenge to such written notice.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

HELD ON DECEMBER 1, 2009

A Notice of Proposed Rule Development was published in the Florida Administrative Weekly on November 13, 2009 (Vol. 35, No. 45, p. 5777), to advise the public of the development of changes to Rule 12A-1.060, F.A.C. (Registration), and to provide that, if requested in writing, a rule development workshop would be held on December 1, 2009. No

request was received by the Department. No written comments have been received by the Department.

NOTICE OF PROPOSED RULE

DEPARTMENT OF REVENUE

SALES AND USE TAX

RULE NO.: RULE TITLE:

12A-1.060 Registration

PURPOSE AND EFFECT: Section 212.12(2)(d), F.S., as amended by section 25, Chapter 2007-106, L.O.F., provides that any person who, after written notice issued by the Department, intentionally fails to register the business with the Department, is liable for a specific penalty of 100 percent of any unreported or any uncollected tax or fee. The person who has received such written notice may file a written challenge to the notice in accordance with the procedures established by the Department. The purpose of this rulemaking is to provide for issuance of a notice alerting a person of the requirement to register his or her business and the procedures by which that person may timely file a written challenge to such notice. The effect of this rulemaking is to inform taxpayers of the Department's procedures for imposing the penalties for failure to register after written notice has been issued by the Department and the procedures for timely filing a written challenge to such written notice.

SUMMARY: The proposed amendments to Rule 12A-1.060, F.A.C. (Registration): (1) provide that when a person conducting business in Florida fails or refuses to register, the Department will issue a written notice to alert that person of the requirement to register; (2) provide that to challenge the notice issued by the Department, a written challenge must be filed within 30 days of the date of the notice; (3) specify the criteria for what must be contained within a written challenge and how to file the challenge with the Department; (4) provide when the Department will authorize an extension period of 15 calendar days within which to file a written challenge to

the notice; (5) provide that any person who fails to timely request an extension of time to file a challenge to the Department's notices, or who fails to timely file a challenge, will result in forfeiture of the person's right to challenge the notice issued by the Department; (6) provide that the Department will issue a response to a timely-filed written challenge to the notice; (7) provide that a \$100 registration fee will be imposed upon any person who waives the right to file a written challenge to the notice, who fails to timely file a written challenge to the notice, or who fails or refuses to register after the Department has issued a response to a challenge determining that the person is required to register; and (8) provide that these procedures are for investigative purposes, as provided in section 120.57(5), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared. Any person who wishes to provide information regarding regulatory costs, or to provide a proposal for a lower-cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 212.12(2)(d), 212.17(6), 212.18(2), 213.06(1) FS.

LAW IMPLEMENTED: 212.12(2), (5), (6), 212.18(3) FS.

A HEARING WILL BE HELD AT THE DATE, TIME, AND PLACE SHOWN BELOW:

DATE AND TIME: [To be determined]

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. Persons with hearing or

speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Janet Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

THE FULL TEXT OF THE PROPOSED RULE IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULE 12A-1.060

12A-1.060 Registration.

(1) through (4) No change.

(5) PENALTIES FOR FAILURE OR REFUSAL TO REGISTER.

(a) No person shall be issued any license from any authority within the State of Florida to engage in any business activity required to be registered with the Department until such person is the holder of a valid certificate of registration.

(b) The Department is authorized to impose a \$100 registration fee for each place of business for the failure or refusal of any person to register with the Department prior to engaging in or conducting business in this state as a dealer. Persons who have failed or refused to register are those that the Department seeks to register as a result of information supplied by an informant under Section 213.30, F.S., or as a result of enforcement programs administered by the Department. In making the determination whether the \$100 registration fee shall be imposed, the Executive Director or the Executive Director's designee in the responsible process shall consider and be guided by:

1. The prior history, if any, of the applicant's compliance or noncompliance with the revenue laws administered by the Department pursuant to Section 213.05, F.S.;

2. The applicant's ability to demonstrate the exercise of ordinary care and prudence through presenting to the Department facts and circumstances indicating that a diligent attempt to meet the registration requirements of the law was made. An applicant with limited business knowledge, limited education, or limited experience with Florida tax matters may establish a basis for the existence of reasonable cause when there is reasonable doubt whether the applicant is required to register;

3. Reliance upon the erroneous advice of a competent advisor that the applicant did not meet the registration requirements. To establish a reasonable cause for noncompliance with the registration requirements, the applicant must demonstrate that advice was sought in a timely manner from the competent advisor, that all necessary information was provided to the competent advisor, and that the applicant acted in good faith on the information received from the competent advisor;

4. The applicant's ability to demonstrate reliance upon another person to comply with the registration requirements on behalf of the applicant;

5. Whether the applicant, the applicant's agent, or the applicant's employee can demonstrate that the applicant exercised ordinary care and prudence in meeting the registration requirements once the applicant had actual or constructive knowledge of the requirements.

(c)1. When a person conducting business in this state fails or refuses to register his or her business, a written notice will be issued by the Department to that person alerting the person of the requirement to register. Delivery of the written notice is by certified mail or by the use of another method that is documented by the Department as being necessary and reasonable under the circumstances. Within 30 consecutive calendar days from the date of the notice, the person who has failed or refused to register must:

a. Register the person's business by submitting an Application to Collect and/or Report Tax in Florida (Form DR-1) to the Department; or

b. File a written challenge to the notice.

2. A person who has received a written notice alerting the person of the requirement to register with the Department may file a written challenge to the notice. The written challenge must be mailed, faxed, or hand delivered within 30 consecutive calendar days of the notice. A written challenge must be made directly to the office designated in the notice and must include:

a. The person's name, address, and telephone number;

b. A statement of facts disputing the requirement to register and a description of any additional information not previously available that supports the dispute;

c. A statement explaining the law or other authority on which the taxpayer's position is based;

d. A statement whether oral presentation and argument are requested; and

e. A copy of the notice alerting the person of the requirement to register with the Department.

3. An extension of time in which to submit a written challenge may be secured by mailing, hand delivering, or faxing a written request to the office address or fax number provided in the notice. The written request for an extension to file a written challenge to the notice must be postmarked, faxed, or received by hand delivery within 30 consecutive calendars from the date of the notice. The Department will grant an extension period of 15 consecutive calendar days within which to file a written challenge to the notice.

4. If the written challenge does not contain the required information, the person will be notified in writing by the office issuing the notice that the required information must be

postmarked, hand delivered, or faxed to the Department within 15 consecutive calendar days.

Failure to timely submit the required information will result in forfeiture of the person's right to challenge the notice.

5. Written challenges postmarked, faxed, or received by hand delivery after 30 consecutive calendar days from the date of the notice, or after any extension period granted by the Department to file a written challenge, will be deemed late filed, and the person will be considered to have waived their right to file a written challenge to the Department's notice.

6. If the person receiving a notice issued by the Department notifying the person of the requirement to register fails to timely file a written challenge, or fails to timely request an extension of time to file a written challenge, the person will be considered to have waived their right to file a written challenge to the Department's notice.

7. Upon receipt of a timely-filed written challenge containing the required information, the Department will issue a response.

8. Any person who fails or refuses to register a place of business after failing to file, or waiving their right to file, a written challenge to the Department's notice, or after receiving the Department's response to a written challenge to the Department's notice that determines that the person should register his or her business, will become subject to the penalties imposed under Section 212.12(2)(d), F.S., and a \$100 registration fee will be imposed upon registration with the Department.

9. Procedures outlined in this paragraph shall be for investigative purposes, as specified in Section 120.57(5), F.S.

(6) No change.

Rulemaking Authority 212.12(2)(d), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented
212.03(1), (2), 212.04(4), 212.0596(1), (2), 212.06(2), 212.12(2), (5), (6), 212.14(4), 212.16(1),
(2), 212.18(3) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 3-21-77, 5-10-77, 10-
18-78, Formerly 12A-1.60, Amended 6-10-87, 1-2-89, 11-12-90, 3-17-94, 1-2-95, 3-20-96, 11-
30-97, 4-2-00, 6-19-01, 10-2-01(1), 10-2-01(1), 8-1-02, 4-17-03, 6-12-03, 6-4-08, 9-1-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet Young, Tax Law Specialist,
Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443,
Tallahassee, Florida 32314-7443, telephone (850)922-9407.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: [To be determined.]

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: [To be determined]

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of
Rule Development was published in the Florida Administrative Weekly on September 25, 2009
(Vol. 35, No. 45, p. 5777). No comments have been received by the Department.



February 11, 2010

MEMORANDUM

TO: The Honorable Charlie Crist, Governor
Attention: Pat Gleason, Director of Cabinet Affairs

The Honorable Bill McCollum, Attorney General
Attention: Rob Johnson, Cabinet Affairs

The Honorable Alex Sink, Chief Financial Officer
Attention: Robert Tornillo, Chief Cabinet Aide
Amber Hughes, Cabinet Aide

The Honorable Charles Bronson, Agriculture Commissioner
Attention: Jim Boxold, Chief Cabinet Aide
Cathy Giordano, Cabinet Aide

FROM: Jeff Kielbasa, Deputy Executive Director

SUBJECT: Rulemaking—Proposed Rules on Hearing Procedures Before Value Adjustment Boards

What is the Department Requesting? Final adoption of these proposed value adjustment board rules, and approval to file and certify them with the Secretary of State under Chapter 120, Florida Statutes.

Why are These Proposed Rules Necessary? To administratively implement Chapter 194, Florida Statutes, which requires the Department to provide statewide uniform rules and procedures that apply to all participants in value adjustment board proceedings.

ATTACHMENT #3

What Do These Proposed Rules Do? These proposed rules:

- Create new Rule Chapter 12D-9, F.A.C., which provides procedures for hearings before boards and their special magistrates;
- Repeal provisions in existing Rule Chapter 12D-10, F.A.C., since most of the provisions in this rule chapter are being moved to new Rule Chapter 12D-9, F.A.C.;
- Amend Rule 12D-16.002, F.A.C., to provide new and revised forms to support these hearing procedures.

These rules provide procedures for the administrative review of local property tax assessments, exemptions, and classifications that include:

- Transparency to promote property owner confidence in the value adjustment board hearing process;
- Statewide uniformity for procedures and forms used in the process; and,
- Mechanisms for local flexibility to recognize the diverse size of local jurisdictions and the volume of petitions considered by value adjustment boards.

Were Comments Received from External Parties? Yes. These rule packages were developed using a multi-step process designed to maximize public participation:

- Topics based on value adjustment board hearing procedure issues were discussed with interested parties in a round-table forum at a series of day-long public meetings (March 13, 2009; May 12, 13, and 14, 2009; and July 2, 2009);
- Proposed rules were written based on these discussions;
- A subsequent rule development workshop was held to receive public comments on the proposed rules (August 4, 2009);
- A revised draft was developed based on the workshop;
- On August 25, 2009, the Governor and Cabinet approved the Department's request to hold public hearings on the proposed rules;
- On October 9, 2009 and December 14, 2009, the Department held public hearings on proposed new Rule Chapter 12D-9, F.A.C., and the amendments to Rule 12D-16.002, F.A.C.;
- On January 11, 2010, the Department held a public hearing on the proposed repeal of provisions in existing Rule Chapter 12D-10, F.A.C.;

- On January 22, 2010, the Department published a Notice of Change in the Florida Administrative Weekly (Weekly) to revise the proposed rules based on comments received from the public and the Joint Administrative Procedures Committee (Committee); and,
- On February 5, 2010, the Department published a second Notice of Change to address subsequent comments received from the public and the Committee.

For the three public meetings, the workshop, and the two public rule hearings, approximately 1,700 comments were received (written and verbal), and considered during development of these proposed rules. The transcripts covering these proceedings exceeded 1,900 pages.

Attached are copies of:

- Summaries of the proposed rules
- Statements of facts and circumstances justifying the rules
- Federal relation statements
- Summaries of meetings, workshops, and hearings
- Proposed rule text with notices of change incorporated
- Notice of cabinet meeting

Proposed New Rules In
New Rule Chapter 12D-9, F.A.C.

(Requirements for Value Adjustment Boards In
Administrative Reviews; Uniform Rules
Of Procedure for Hearings Before
Value Adjustment Boards)

STATE OF FLORIDA

DEPARTMENT OF REVENUE

CHAPTER 12D-9, FLORIDA ADMINISTRATIVE CODE

PROPERTY TAX OVERSIGHT PROGRAM

CREATING RULES 12D-9.001, 12D-9.002, 12D-9.003, 12D-9.004, 12D-9.005, 12D-9.006, 12D-9.007, 12D-9.008, 12D-9.009, 12D-9.010, 12D-9.011, 12D-9.012, 12D-9.013, 12D-9.014, 12D-9.015, 12D-9.016, 12D-9.017, 12D-9.018, 12D-9.019, 12D-9.020, 12D-9.021, 12D-9.022, 12D-9.023, 12D-9.024, 12D-9.025, 12D-9.026, 12D-9.027, 12D-9.028, 12D-9.029, 12D-9.030, 12D-9.031, 12D-9.032, 12D-9.033, 12D-9.034, 12D-9.035, 12D-9.036, 12D-9.037, AND
12D-9.038

SUMMARY OF THE PROPOSED RULES

a) Proposed Rule 12D-9.001, Florida Administrative Code (F.A.C.), enumerates the specific rights regarding value adjustment board (board) procedures that are granted by law to taxpayers; b) Proposed Rule 12D-9.002, F.A.C., discusses how a taxpayer can request to meet with the property appraiser or appraiser staff to informally discuss an assessment; c) Proposed Rule 12D-9.003, F.A.C., defines words and terms used in these rules; d) Proposed Rule 12D-9.004, F.A.C., establishes criteria and procedures for membership on the board; e) Proposed Rule 12D-9.005, F.A.C., discusses duties of the board regarding holding meetings, proper noticing of meetings, duration of its responsibilities, the adoption of operating procedures that comply with state law and these rules, and maintaining administrative and staff independence from property appraiser and tax collector offices; f) Proposed Rule 12D-9.006, F.A.C., identifies who must serve as clerk of the Value Adjustment Board; g) Proposed Rule 12D-9.007, F.A.C., establishes the duties that

must be performed by the board clerk; h) Proposed Rule 12D-9.008, F.A.C., discusses procedures regarding the appointment of board legal counsel to help the board; i) Proposed Rule 12D-9.009, F.A.C., explains the role that board legal counsel has regarding advising the board; j) Proposed Rule 12D-9.010, F.A.C., specifies the appointment, qualifications, and training of special magistrates, and stipulates that magistrate selection can not be influenced by any party to a board proceeding; k) Proposed Rule 12D-9.011, F.A.C., includes procedures regarding the role of special magistrates when they act on behalf of the board to take testimony and conduct orderly and fair proceedings and issue recommended decisions on petitions; l) Proposed Rule 12D-9.012, F.A.C., discusses how the Department of Revenue provides training for special magistrates, board members, and board legal counsel; m) Proposed Rule 12D-9.013, F.A.C., details when and how the board's organizational meeting is to be held and what matters it must discuss; n) Proposed Rule 12D-9.014, F.A.C., provides that requirements in Chapter 194, F.S., must be met before the board clerk can schedule hearings and explains such requirements; o) Proposed Rule 12D-9.015, F.A.C., adopts a petition form to be used by petitioners for requesting a hearing before a value adjustment board, specifies procedures for timely or untimely submission of such petition, filing fees, and the submission of joint petitions to ease taxpayer burden, and explains how to establish good cause for considering a late-filed petition; p) Proposed Rule 12D-9.016, F.A.C., defines what constitutes the "filing" of documents, explains how documents other than the petition are filed, and specifies how copies must be provided to all parties; q) Proposed Rule 12D-9.017, F.A.C., specifies procedures regarding ex parte communications between participants; r) Proposed Rule 12D-9.018, F.A.C., discusses the right of a taxpayer to be represented by an agent (including a family member) or attorney; s) Proposed Rule 12D-9.019, F.A.C., establishes procedures regarding the scheduling of hearings and rescheduled hearings,

petitioner requests for a specific amount of time to present their petition, and notification to all parties regarding such scheduling; t) Proposed Rule 12D-9.020, F.A.C., contains procedures for the exchange of evidence between the petitioner and the property appraiser; u) Proposed Rule 12D-9.021, F.A.C., specifies procedures for handling withdrawn or settled petitions and petitions acknowledged as correct by the property appraiser; v) Proposed Rule 12D-9.022 F.A.C., provides procedures for the disqualification or recusal of board members or special magistrates; w) Proposed Rule 12D-9.023, F.A.C., establishes that the board clerk controls the administrative functions that support the conduct of hearings, and provides for ensuring that parties are given adequate time for their petition; x) Proposed Rule 12D-9.024, F.A.C., explains procedures for determining at the start of a hearing if a petition is contested or uncontested, how to handle the failure of a petitioner or the property appraiser to appear at a scheduled hearing, and the content of a required opening statement that must be made by the board or the board's special magistrate; y) Proposed Rule 12D-9.025, F.A.C., discusses procedures for the presentation and handling of evidence during the hearing, the testimony of witnesses, and how, with the agreement of all parties, a party can be given additional time to collect and provide additional information; z) Proposed Rule 12D-9.026, F.A.C., contains procedures for holding a hearing using electronic media, if agreed to by all parties; aa) Proposed Rule 12D-9.027, F.A.C., outlines the detailed steps the board or a special magistrate must follow when considering evidence, developing conclusions, and producing written decisions for petitions regarding valuations, exemptions, classifications, and portability assessment transfers; bb) Proposed Rule 12D-9.028, F.A.C., explains procedures a taxpayer can use to file a petition asking the board to review a denial of assessment limitation difference transfer or to review the amount of such transfer; cc) Proposed Rule 12D-9.029, F.A.C., establishes procedures for a board or special magistrate to send the

property appraiser a request to review a just value assessment or a classified use value assessment that is the subject of a petition based on specific conditions, including the procedures used by the property appraiser to review the request, time frames for the review, duties of the board clerk, and the scheduling of a continuation hearing if requested by a petitioner; dd) Proposed Rule 12D-9.030, F.A.C., discusses requirements concerning the recommended decisions of special magistrates; ee) Proposed Rule 12D-9.031, F.A.C., specifies the procedures that boards must follow when considering and adopting the recommended decisions of their special magistrates; ff) Proposed Rule 12D-9.032, F.A.C., contains procedures regarding the issuance of final decisions by boards on petitions, including procedures about documenting the basis for the final decision; gg) Proposed Rule 12D-9.033, F.A.C., provides that further proceedings after a board issues a final decision, and the timing of such further proceedings, are governed by specific statutes; hh) Proposed Rule 12D-9.034, F.A.C., discusses requirements for board clerks to establish and maintain records of proceedings; ii) Proposed Rule 12D-9.035, F.A.C., specifies the responsibilities of board clerks regarding the preparation and transmission of board records in instances where there is circuit court review under Section 194.036, F.S.; jj) Proposed Rule 12D-9.036, F.A.C., states that the procedures for handling petitions about denials of requests to participate in the tax deferral program are the same procedures contained in this rule chapter for the handling of denials of exemptions; kk) Proposed Rule 12D-9.037, F.A.C., establishes procedures for value adjustment boards to certify that the board met all requirements of applicable statutes and the Department's rules, including the form and timing of such certification and what entities receive a copy; and, ll) Proposed Rule 12D-9.038, F.A.C., directs the clerk of the board to publish an advertisement in a newspaper of general circulation

informing the public of the findings and results of the board after it has heard all petitions, complaints, appeals, and disputes.

FACTS AND CIRCUMSTANCES JUSTIFYING THE PROPOSED RULES

These proposed new rules and new and amended forms are necessary to implement the provisions of Chapter 194, F.S. The effect of these proposals is to provide statewide uniform rules and procedures that apply to all participants in value adjustment board proceedings.

FEDERAL COMPARISON STATEMENT

The provisions contained in these proposed new rules and new and amended forms do not conflict with federal laws, policies, or standards, since the federal government does not impose an ad valorem tax on real or tangible personal property.

SUMMARY OF RULE DEVELOPMENT WORKSHOPS

In 2008, the Department held seven workshops to develop a rule draft. After these workshops, it became evident that a different approach was required. The Department instead used a multi-step process designed to maximize public participation:

- Value adjustment board hearing procedure issues were discussed with interested parties in a round-table forum at three day-long public meetings—March 13, 2009 (notice of which was published in the Florida Administrative Weekly (Weekly) in Vol. 35, No. 8, p. 1000); May 12, 13, and 14, 2009 (notice was published in the Weekly in Vol. 35, No. 16, p. 1990); and July 2, 2009 (notice was published in the Weekly in Vol. 35, No. 25, p. 3113);
- Proposed rules were written based on these discussions;

- A subsequent rule development workshop was held to receive public comments on the proposed rules—August 4, 2009 (notice was published in the Weekly in Vol. 35, No. 28, pp. 3350-3352); and,
- A revised draft was developed based on the workshop. Members of the public attended each of these meetings and the workshop and made comments.

In addition, written comments have been submitted to the Department by email, and to an Internet site at <http://dor.myflorida.com/dor/property/vabwb/vabws.html>, which was created specifically to give the public a location to post comments, to access all revised versions of the rules and forms, and to view comments submitted on these proposed new and amended rules and forms.

SUMMARY OF PUBLIC HEARING

HELD ON AUGUST 25, 2009

On August 25, 2009, the Governor and Cabinet approved publication of a Notice of Proposed Rule for these proposed rules. Notice of this August 25, 2009, meeting of the Governor and Cabinet was published in the Weekly on August 14, 2009 (Vol. 35, No. 32, pp. 3893-3894).

SUMMARY OF PUBLIC HEARING

HELD ON OCTOBER 9, 2009

On October 9, 2009, the Department held a rule public hearing on the proposed new rules in Rule Chapter 12D-9, F.A.C. Notice of this public hearing was published in the Weekly on September 4, 2009 (Vol. 35, No. 35, pp. 4249-4277). Comments on these proposed new rules were received from the public during and after the hearing. In addition, the Department received comments from the Joint Administrative Procedures Committee.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 14, 2009

The Department held a second rule public hearing on December 14, 2009. Notice of this public hearing was published in the Weekly on December 4, 2009 (Vol. 35, No. 48, pp. 6178-6179). Additional comments on these proposed new rules were received from the public during and after the hearing. Also, the Department received comments from the Joint Administrative Procedures Committee (Committee).

Based on comments received from the public and the Committee since the publication of the Notice of Proposed Rule, the Department published a Notice of Change for these proposed new rules in the Weekly on January 22, 2010 (Vol. 36, No. 3, pp. 390—405). Subsequently, the Department published a second Notice of Change in the Weekly on February 5, 2010 (Vol. 36, No. 5, pp. 596-600).

1 STATE OF FLORIDA

2 DEPARTMENT OF REVENUE

3 PROPERTY TAX OVERSIGHT PROGRAM

4 CREATING RULE CHAPTER 12D-9, FLORIDA ADMINISTRATIVE CODE

5 REQUIREMENTS FOR VALUE ADJUSTMENT BOARDS IN ADMINISTRATIVE

6 REVIEWS; UNIFORM RULES OF PROCEDURE FOR HEARINGS BEFORE

7 VALUE ADJUSTMENT BOARDS

8
9 Part I

10 Taxpayer Rights; Informal Conference Procedures; Definitions; Composition of the Value

11 Adjustment Board; Appointment of the Clerk; Appointment of Legal Counsel to the Board;

12 Appointment of Special Magistrates

13
14 12D-9.001 Taxpayer Rights in Value Adjustment Board Proceedings.

15 12D-9.002 Informal Conference Procedures.

16 12D-9.003 Definitions.

17 12D-9.004 Composition of the Value Adjustment Board.

18 12D-9.005 Duties of the Board.

19 12D-9.006 Clerk of the Value Adjustment Board.

20 12D-9.007 Role of the Clerk of the Value Adjustment Board.

21 12D-9.008 Appointment of Legal Counsel to the Value Adjustment Board.

22 12D-9.009 Role of Legal Counsel to the Board.

23 12D-9.010 Appointment of Special Magistrates to the Value Adjustment Board.

- 1 12D-9.011 Role of Special Magistrates to the Value Adjustment Board.
- 2 12D-9.012 Training of Special Magistrates, Value Adjustment Board Members, and Legal
- 3 Counsel.
- 4 12D-9.013 Organizational Meeting of the Value Adjustment Board.
- 5 12D-9.014 Prehearing Checklist.

7 Part II

- 8 Petitions; Representation of the Taxpayer; Scheduling and Notice of a Hearing;
- 9 Exchange of Evidence; Withdrawn or Settled Petitions; Hearing Procedures;
- 10 Disqualification or Recusal; Ex Parte Communication Prohibition; Record of the Proceeding;
- 11 Petitions on Transfer of “Portability” Assessment Difference; Remanding Assessments;
- 12 Recommended Decisions; Consideration and Adoption of Recommended Decisions;
- 13 Final Decisions; Further Judicial Proceedings.

- 14
- 15 12D-9.015 Petition; Form and Filing Fee.
- 16 12D-9.016 Filing and Service.
- 17 12D-9.017 Ex Parte Communication Prohibition.
- 18 12D-9.018 Representation of the Taxpayer.
- 19 12D-9.019 Scheduling and Notice of a Hearing.
- 20 12D-9.020 Exchange of Evidence.
- 21 12D-9.021 Withdrawn or Settled Petitions; Petitions Acknowledged as Correct; Non-
- 22 Appearance; Summary Disposition of Petitions.
- 23 12D-9.022 Disqualification or Recusal of Special Magistrates or Board Members.

- 1 12D-9.023 Hearings Before Board or Special Magistrates.
- 2 12D-9.024 Procedures for Commencement of a Hearing.
- 3 12D-9.025 Procedures for Conducting a Hearing; Presentation of Evidence; Testimony of
4 Witnesses.
- 5 12D-9.026 Procedures for Conducting a Hearing by Electronic Media.
- 6 12D-9.027 Process of Administrative Review.
- 7 12D-9.028 Petitions on Transfer of “Portability” Assessment Difference.
- 8 12D-9.029 Procedures for Remanding Value Assessments to the Property Appraiser.
- 9 12D-9.030 Recommended Decisions.
- 10 12D-9.031 Consideration and Adoption of Recommended Decisions of Special Magistrates
11 by Value Adjustment Boards in Administrative Reviews.
- 12 12D-9.032 Final Decisions.
- 13 12D-9.033 Further Judicial Proceedings.
- 14 12D-9.034 Record of the Proceeding.
- 15 12D-9.035 Duty of Clerk to Prepare and Transmit Record.
- 16 12D-9.036 Procedures for Petitions on Denials of Tax Deferrals.

17

18 Part III

19 Uniform Certification of Assessment Rolls

20

- 21 12D-9.037 Certification of Assessment Rolls.
- 22 12D-9.038 Public Notice of Findings and Results of Value Adjustment Board.

23

1 Part I

2 Taxpayer Rights; Informal Conference Procedures; Definitions; Composition of the Value
3 Adjustment Board; Appointment of the Clerk; Appointment of Legal Counsel to the Board;
4 Appointment of Special Magistrates

5
6 12D-9.001 Taxpayer Rights in Value Adjustment Board Proceedings.

7 (1) Taxpayers are granted specific rights by Florida law concerning value adjustment board
8 procedures.

9 (2) These rights include:

10 (a) The right to be notified of the assessment of each taxable item of property in accordance
11 with the notice provisions set out in Florida Statutes for notices of proposed property taxes;

12 (b) The right to request an informal conference with the property appraiser regarding the
13 correctness of the assessment or to petition for administrative or judicial review of property
14 assessments. An informal conference with the property appraiser is not a prerequisite to filing a
15 petition for administrative review or an action for judicial review;

16 (c) The right to file a petition on a form provided by the county that is substantially the same
17 as the form prescribed by the department or to file a petition on the form provided by the
18 department for this purpose;

19 (d) The right to state on the petition the approximate time anticipated by the taxpayer to
20 present and argue his or her petition before the board;

21 (e) The right to be sent prior notice of the date for the hearing of the taxpayer's petition by
22 the value adjustment board and the right to the hearing within a reasonable time of the scheduled
23 hearing;

1 (f) The right to request and be granted a change in the hearing date as described in this
2 chapter;

3 (g) The right to be notified of the date of certification of the county's tax rolls and to be sent
4 a property record card if requested;

5 (h) The right to represent himself or herself or to be represented by an attorney or an agent;

6 (i) The right to have evidence presented and considered at a public hearing or at a time when
7 the petitioner has been given reasonable notice;

8 (j) The right to have witnesses sworn and cross-examined;

9 (k) The right to be issued a timely written decision within 20 calendar days of the last day the
10 board is in session pursuant to Section 194.032, F.S., by the value adjustment board containing
11 findings of fact and conclusions of law and reasons for upholding or overturning the
12 determination of the property appraiser or tax collector;

13 (l) The right to advertised notice of all board actions, including appropriate narrative and
14 column descriptions, in brief and nontechnical language;

15 (m) The right to bring an action in circuit court to appeal a value adjustment board valuation
16 decision or decision to disapprove a classification, exemption, portability assessment difference
17 transfer, or to deny a tax deferral or to impose a tax penalty;

18 (n) The right to have federal tax information, ad valorem tax returns, social security numbers,
19 all financial records produced by the taxpayer and other confidential taxpayer information, kept
20 confidential; and

21 (o) The right to limiting the property appraiser's access to a taxpayer's records to only those
22 instances in which it is determined that such records are necessary to determine either the
23 classification or the value of taxable nonhomestead property.

1 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
2 192.0105, 193.074, 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 194.036, 194.301,
3 195.002, 195.027, 195.084, 195.096, 196.011, 196.151, 196.193, 196.194, 197.122, 213.05 FS.
4 History—New _____.

5
6 12D-9.002 Informal Conference Procedures.

7 (1) Any taxpayer who objects to the assessment placed on his or her property, including the
8 assessment of homestead property at less than just value, shall have the right to request an
9 informal conference with the property appraiser.

10 (2) The property appraiser or a member of his or her staff shall confer with the taxpayer
11 regarding the correctness of the assessment.

12 (3) At the conference, the taxpayer shall present facts that he or she considers supportive of
13 changing the assessment and the property appraiser or his or her representative shall present facts
14 that the property appraiser considers to be supportive of the assessment.

15 (4) The request for an informal conference is not a prerequisite to administrative or judicial
16 review of property assessments. Requesting or participating in an informal conference does not
17 extend the petition filing deadline. A taxpayer may file a petition while seeking an informal
18 conference in order to preserve his or her right to an administrative hearing.

19 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
20 194.011, 213.05 FS. History—New _____.

21
22 12D-9.003 Definitions.

1 (1) “Agent” means any person, including a family member of the taxpayer, who is authorized
2 to represent the taxpayer before the board.

3 (2) “Board” means the local value adjustment board.

4 (3) “Clerk” means the clerk of the local value adjustment board.

5 (4) “Department,” unless otherwise designated, means the Department of Revenue.

6 (5) “Hearing” means any hearing relating to a petition before a value adjustment board or
7 special magistrate, regardless of whether the parties are physically present or telephonic or other
8 electronic media is used to conduct the hearing, but shall not include a proceeding to act upon,
9 consider or adopt special magistrates’ recommended decisions at which no testimony or
10 comment is taken or heard from a party.

11 (6) “Petitioner” means the taxpayer or the taxpayer as represented by an agent or attorney.

12 (7) “Taxpayer” means the person or other legal entity in whose name property is assessed,
13 including an agent of a timeshare period titleholder, and includes exempt owners of property, for
14 purposes of this chapter.

15 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
16 192.001, 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 194.036, 194.171, 195.022,
17 213.05, AGO 2002-058 FS. History-New _____.

18
19 12D-9.004 Composition of the Value Adjustment Board.

20 (1) Every county shall have a value adjustment board which consists of:

21 (a) Two members of the governing body of the county, elected by the governing body from
22 among its members, one of whom shall be elected as the chairperson of the value adjustment
23 board;

1 (b) One member of the school board of the county, elected by the school board from among
2 its members; and

3 (c) Two citizen members:

4 1. One who owns homestead property in the county appointed by the county's governing
5 body;

6 2. One who owns a business that occupies commercial space located within the school
7 district appointed by the school board of the county. This person must, during the entire course
8 of service, own a commercial enterprise, occupation, profession, or trade conducted from a
9 commercial space located within the school district and need not be the sole owner.

10 3. Citizen members must not be:

11 a. A member or employee of any taxing authority in this state;

12 b. A person who represents property owners, property appraisers, tax collectors, or taxing
13 authorities in any administrative or judicial review of property taxes.

14 4. Citizen members shall be appointed in a manner to avoid conflicts of interest or the
15 appearance of conflicts of interest.

16 (2)(a) Each elected member of the value adjustment board shall serve on the board until he or
17 she is replaced by a successor elected by his or her respective governing body or school board or
18 is no longer a member of the governing body or school board of the county.

19 (b) When an elected member of the value adjustment board ceases being a member of
20 the governing body or school board whom he or she represents, that governing body or school
21 board must elect a replacement.

1 (c) When the citizen member of the value adjustment board appointed by the governing body
2 of the county is no longer an owner of homestead property within the county, the governing body
3 must appoint a replacement.

4 (d) When the citizen member appointed by the school board is no longer an owner of a
5 business occupying commercial space located within the school district, the school board must
6 appoint a replacement.

7 (3)(a) At the same time that it selects a primary member of the value adjustment board, the
8 governing body or school board may select an alternate to serve in place of the primary member
9 as needed. The method for selecting alternates is the same as that for selecting the primary
10 members.

11 (b) At any time during the value adjustment board process the chair of the county governing
12 body or the chair of the school board may appoint a temporary replacement for its elected
13 member of the value adjustment board or for a citizen member it has appointed to serve on the
14 value adjustment board.

15 (4)(a) To have a quorum of the value adjustment board, the members of the board who are
16 present must include at least:

17 1. One member of the governing body of the county;

18 2. One member of the school board; and

19 3. One of the two citizen members.

20 (b) The quorum requirements of Section 194.015, F.S., may not be waived by anyone,
21 including the petitioner.

22 (5) The value adjustment board cannot hold its organizational meeting until all members of
23 the board are appointed, even if the number and type of members appointed are sufficient to

1 constitute a quorum. If board legal counsel has not been previously appointed for that year, such
2 appointment must be the first order of business.

3 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
4 194.011, 194.015, 213.05 FS. AGO 2008-056. History--New _____.

5
6 12D-9.005 Duties of the Board.

7 (1)(a) The value adjustment board shall meet not earlier than 30 days and not later than 60
8 days after the mailing of the notice provided in Section 194.011(1), F.S.; however, no board
9 hearing shall be held before approval of all or any part of the county's assessment rolls by the
10 Department of Revenue. The board shall meet for the following purposes:

11 1. Hearing petitions relating to assessments filed pursuant to Section 194.011(3), F.S.;

12 2. Hearing complaints relating to homestead exemptions as provided for under Section
13 196.151, F.S.;

14 3. Hearing appeals from exemptions denied, or disputes arising from exemptions granted,
15 upon the filing of exemption applications under Section 196.011, F.S.; or

16 4. Hearing appeals concerning ad valorem tax deferrals and classifications.

17 (b) The board may not meet earlier than July 1 to hear appeals pertaining to the denial of
18 exemptions, agricultural and high-water recharge classifications, classifications as historic
19 property used for commercial or certain nonprofit purposes, and deferrals.

20 (c) The board shall remain in session until its duties are completed concerning all assessment
21 rolls or parts of assessment rolls. The board may temporarily recess, but shall reconvene when
22 necessary to hear petitions, complaints, or appeals and disputes filed upon the roll or portion of
23 the roll when approved. The board shall make its decisions timely so that the board clerk may

1 observe the requirement that such decisions shall be issued within 20 calendar days of the last
2 day the board is in session pursuant to Section 194.032, F.S.

3 (2)(a) Value adjustment boards may have additional internal operating procedures, not rules,
4 that do not conflict with, change, expand, suspend, or negate the rules adopted in this rule
5 chapter or other provisions of law, and only to the extent indispensable for the efficient operation
6 of the value adjustment board process. The board may publish fee schedules adopted by the
7 board.

8 (b) These internal operating procedures may include methods for creating the verbatim
9 record, provisions for parking by participants, assignment of hearing rooms, compliance with the
10 Americans with Disabilities Act, and other ministerial type procedures.

11 (c) The board shall not provide notices or establish a local procedure instructing petitioners to
12 contact the property appraiser's or tax collector's office or any other agency with questions about
13 board hearings or procedures. The board, board legal counsel, board clerk, special magistrate or
14 other board representative shall not otherwise enlist the property appraiser's or tax collector's
15 office to perform administrative duties for the board. Personnel performing any of the board's
16 duties shall be independent of the property appraiser's and tax collector's office. This section
17 shall not prevent the board clerk or personnel performing board duties from referring petitioners
18 to the property appraiser or tax collector for issues within the responsibility of the property
19 appraiser or tax collector. This section shall not prevent the property appraiser from providing
20 data to assist the board clerk with the notice of tax impact.

21 (3) The board must ensure that all board meetings are duly noticed under Section 286.011,
22 F.S., and are held in accordance with the law.

23 (4) Other duties of value adjustment boards are set forth in other areas of Florida law. Value

1 adjustment boards shall perform all duties required by law and shall abide by all limitations on
2 their authority as provided by law.

3 (5) Failure on three occasions with respect to any single tax year for the board to convene at
4 the scheduled time of meetings of the board shall constitute grounds for removal from office by
5 the Governor for neglect of duties.

6 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
7 192.0105, 194.011, 194.015, 194.032, 194.034, 194.035, 194.037, 213.05 FS. History--New

8

9 12D-9.006 Clerk of the Value Adjustment Board.

10 (1) The clerk of the governing body of the county shall be the clerk of the value adjustment
11 board.

12 (2) The board clerk may delegate the day to day responsibilities for the board to a member of
13 his or her staff, but is ultimately responsible for the operation of the board.

14 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
15 28.12, 192.001, 194.011, 194.015, 194.032, 213.05 FS. History--New

16

17 12D-9.007 Role of the Clerk of the Value Adjustment Board.

18 (1) It is the board clerk's responsibility to verify through board legal counsel that the value
19 adjustment board meets all of the requirements for the organizational meeting before the board or
20 special magistrates hold hearings. If the board clerk determines that any of the requirements were
21 not met, he or she shall contact the board legal counsel or the chair of the board regarding such
22 deficiencies and cancel any scheduled hearings until such time as the requirements are met.

23 (2) The board clerk shall make petition forms available to the public upon request.

1 (3) The board clerk shall receive and acknowledge completed petitions and promptly furnish
2 a copy of all completed and timely filed petitions to the property appraiser or tax collector.
3 Alternatively, the property appraiser or the tax collector may obtain the relevant information
4 from the board clerk electronically.

5 (4) The board clerk shall prepare a schedule of appearances before the board based on
6 petitions timely filed with him or her. If the petitioner has indicated on the petition an estimate of
7 the amount of time he or she will need to present and argue the petition, the board clerk must
8 take this estimate into consideration when scheduling the hearing.

9 (5) No less than 25 calendar days prior to the day of the petitioner's scheduled appearance
10 before the board, the board clerk must notify the petitioner of the date and time scheduled for the
11 appearance. The board clerk shall simultaneously notify the property appraiser or tax collector.
12 If, on the taxpayer's petition, he or she requests a copy of the property record card, the board
13 clerk shall obtain a copy of the property record card from the property appraiser and provide it to
14 the petitioner no later than with the notice of the scheduled time of his or her appearance.

15 (6) If an incomplete petition, which includes a petition not accompanied by the required
16 filing fee, is received within the time required, the board clerk shall notify the petitioner and give
17 the petitioner an opportunity to complete the petition within 10 calendar days from the date
18 notification is mailed. Such petition shall be timely if completed and filed, including payment of
19 the fee if previously unpaid within the time frame provided in the board clerk's notice of
20 incomplete petition.

21 (7) In counties with a population of more than 75,000, the board clerk shall provide
22 notification annually to qualified individuals or their professional associations of opportunities to
23 serve as special magistrates.

1 (8) The board clerk shall ensure public notice of and access to all hearings. Such notice shall
2 contain a general description of the locations, dates, and times hearings are being scheduled. This
3 notice requirement may be satisfied by making such notice available on the board clerk's
4 website. Hearings must be conducted in facilities that are clearly identified for such purpose and
5 are freely accessible to the public while hearings are being conducted. The board clerk shall
6 assure proper signage to identify such facilities.

7 (9) The board clerk shall schedule hearings to allow sufficient time for evidence to be
8 presented and considered and to allow for hearings to begin at their scheduled time. The board
9 clerk shall advise the chair of the board if the board's tentative schedule for holding hearings is
10 insufficient to allow for proper scheduling.

11 (10) The board clerk shall timely notify the petitioner by first class mail of the decisions of
12 the board so that such decisions shall be issued within 20 calendar days of the last day the board
13 is in session pursuant to Section 194.032, F.S., and shall otherwise notify the property appraiser
14 or tax collector of such decision. In counties using special magistrates, the board clerk shall also
15 make available to both parties as soon as practicable a copy of the recommended decision of the
16 special magistrate by mail or electronic means. No party shall have access to decisions prior to
17 any other party.

18 (11) After the value adjustment board has decided all petitions, complaints, appeals and
19 disputes, the board clerk shall make public notice of the findings and results of the board in the
20 manner prescribed in Section 194.037, F.S., and by the department.

21 (12) The board clerk is the official record keeper for the board and shall maintain a record of
22 the proceedings which shall consist of:

23 (a) All filed documents;

1 (b) A verbatim record of any hearing;

2 (c) All tangible exhibits and documentary evidence presented;

3 (d) Any meeting minutes; and

4 (e) Any other documents or materials presented on the record by the parties or by the board
5 or special magistrate.

6 The record shall be maintained for four years after the final decision has been rendered by the
7 board, if no appeal is filed in circuit court or for five years if an appeal is filed, or, if requested by
8 one of the parties, until the final disposition of any subsequent judicial proceeding relating to the
9 property.

10 (13) The board clerk shall make available to the public copies of all additional internal
11 operating procedures and forms of the board or special magistrates described in Rule 12D-9.005,
12 F.A.C., and shall post any such procedures and forms on the board clerk's website, if any.
13 Making materials available on a website is sufficient; however, provisions shall be made for
14 persons that have hardship. Such materials shall be consistent with Department rules and forms.

15 (14) The board clerk shall provide notification of appeals or value adjustment board petitions
16 taken with respect to property located within a municipality to the chief executive officer of each
17 municipality as provided in Section 193.116, F.S. The board clerk shall also publish any notice
18 required by Section 196.194, F.S.

19 (15) The board clerk shall have such other duties as set forth elsewhere in these rules and
20 Rule Chapter 12D-10, F.A.C., and in the Florida Statutes and as assigned by the board not
21 inconsistent with law.

1 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
2 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 194.036, 195.022, 213.05 FS. History-
3 New _____.

4
5 12D-9.008 Appointment of Legal Counsel to the Value Adjustment Board.

6 (1) Each value adjustment board must appoint private legal counsel to assist the board.

7 (2) This legal counsel must be an attorney in private practice. The use of an attorney
8 employed by government is prohibited. Counsel must have practiced law for over five years and
9 meet the requirements of Section 194.015, F.S.

10 (3) An attorney may represent more than one value adjustment board.

11 (4) An attorney may represent a value adjustment board, even if another member of the
12 attorney's law firm represents one of the enumerated parties so long as the representation is not
13 before the value adjustment board.

14 (5) Legal counsel should avoid conflicts of interest or the appearance of a conflict of interest
15 in their representation.

16 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
17 194.011, 194.015, 213.05 FS. AGO 2008-055. History--New _____.

18
19 12D-9.009 Role of Legal Counsel to the Board.

20 (1) The board legal counsel shall have the responsibilities listed below consistent with the
21 provisions of law.

1 (a) The primary role of the board legal counsel shall be to advise the board on all aspects of
2 the value adjustment board review process to ensure that all actions taken by the board and its
3 appointees meet the requirements of law.

4 (b) Board legal counsel shall advise the board in a manner that will promote and maintain a
5 high level of public trust and confidence in the administrative review process.

6 (c) The board legal counsel is not an advocate for either party in a value adjustment board
7 proceeding, but instead ensures that the proceedings are fair and consistent with the law.

8 (d) Board legal counsel shall advise the board of the actions necessary for compliance with
9 the law.

10 (e) Board legal counsel shall advise the board regarding:

11 1. Composition and quorum requirements;

12 2. Statutory training and qualification requirements for special magistrates and members of
13 the board;

14 3. Legal requirements for recommended decisions and final decisions;

15 4. Public meeting and open government laws; and

16 5. Any other duties, responsibilities, actions or requirements of the board consistent with the
17 laws of this state.

18 (f) Board legal counsel shall review and respond to written complaints alleging
19 noncompliance with the law by the board, special magistrates, board clerk, and the parties. The
20 legal counsel shall send a copy of the complaint along with the response to the department. This
21 section does not refer to routine requests for reconsideration, requests for rescheduling, and
22 pleadings and argument in petitions.

1 (2) The board legal counsel shall, upon appointment, send his or her contact information,
2 which shall include his or her name, mailing address, telephone number, fax number, and e-mail
3 address, to the department by mail, fax, or e-mail to:

4 Department of Revenue

5 Property Tax Oversight Program

6 Attn: Director

7 P O Box 3000

8 Tallahassee, FL 32315-3000.

9 Fax Number: 850-922-7957

10 Email Address: VAB@dor.state.fl.us

11 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
12 194.011, 194.015, 213.05 FS. History--New _____.

13
14 12D-9.010 Appointment of Special Magistrates to the Value Adjustment Board.

15 (1) In counties with populations of more than 75,000, the value adjustment board shall
16 appoint special magistrates to take testimony and make recommendations on petitions filed with
17 the value adjustment board. Special magistrates shall be selected from a list maintained by the
18 board clerk of qualified individuals who are willing to serve.

19 (2) In counties with populations of 75,000 or less, the value adjustment board shall have the
20 option of using special magistrates. The department shall make available to such counties a list
21 of qualified special magistrates.

22 (3) A person does not have to be a resident of the county in which he or she serves as a
23 special magistrate.

1 (4) The special magistrate must meet the following qualifications:

2 (a) A special magistrate must not be an elected or appointed official or employee of the
3 county.

4 (b) A special magistrate must not be an elected or appointed official or employee of a taxing
5 jurisdiction or of the State.

6 (c) During a tax year in which a special magistrate serves, he or she must not represent any
7 party before the board in any administrative review of property taxes.

8 (d) All special magistrates must meet the qualifications specified in Section 194.035, F.S.

9 1. A special magistrate appointed to hear issues of exemptions, classifications, and portability
10 assessment difference transfers shall be a member of The Florida Bar with no less than five years
11 experience in the area of ad valorem taxation and having received training provided by the
12 department, or with no less than three years of such experience and having completed training
13 provided by the department.

14 2. A special magistrate appointed to hear issues regarding the valuation of real estate shall be
15 a state certified real estate appraiser with not less than five years experience in real property
16 valuation and having received training provided by the department, or with no less than three
17 years of such experience and having completed training provided by the department. A real
18 property valuation special magistrate must be certified under Chapter 475, Part II, F.S.

19 a. A Florida certified residential appraiser appointed by the value adjustment board shall only
20 hear petitions on the just valuation of residential real property of one to four residential units and
21 shall not hear petitions on other types of real property.

22 b. A Florida certified general appraiser appointed by the value adjustment board may hear
23 petitions on the just valuation of any type of real property.

1 3. A special magistrate appointed to hear issues regarding the valuation of tangible personal
2 property shall be a designated member of a nationally recognized appraiser's organization with
3 not less than five years experience in tangible personal property valuation and having received
4 training provided by the department, or with no less than three years of such experience and
5 having completed training provided by the department.

6 4. All special magistrates shall attend or receive an annual training program provided by the
7 department. Special magistrates substituting two years of experience must show that they have
8 completed the training by taking a written examination provided by the department. A special
9 magistrate must receive or complete any required training prior to holding hearings.

10 (5)(a) The value adjustment board or board legal counsel must verify a special magistrate's
11 qualifications before appointing the special magistrate.

12 (b) The selection of a special magistrate must be based solely on the experience and
13 qualification of such magistrate, and must not be influenced by any party, or prospective party, to
14 a board proceeding or by any such party with an interest in the outcome of such proceeding.
15 Special magistrates must adhere to Rule 12D-9.022, F.A.C., relating to disqualification or
16 recusal.

17 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented

18 194.011, 194.032, 194.034, 194.035, 195.022, 213.05 Chapter 475, Part II FS. History-New

19
20 12D-9.011 Role of Special Magistrates to the Value Adjustment Board.

21 (1) The role of the special magistrate is to conduct hearings, take testimony and make
22 recommendations to the board regarding petitions filed before the board. In carrying out these
23 duties the special magistrate shall:

1 (a) Accurately and completely preserve all testimony, documents received, and evidence
2 admitted for consideration;

3 (b) At the request of either party, administer the oath upon the property appraiser or tax
4 collector, each petitioner and all witnesses testifying at a hearing;

5 (c) Conduct all hearings in accordance with the rules prescribed by the department and the
6 laws of the state; and

7 (d) Make recommendations to the board which shall include proposed findings of fact,
8 proposed conclusions of law, and the reasons for upholding or overturning the determination of
9 the property appraiser or tax collector, also see Rule 12D-9.030, F.A.C.

10 (2) The special magistrate shall perform other duties as set out in the rules of the department
11 and other areas of Florida law, and shall abide by all limitations on the special magistrate's
12 authority as provided by law.

13 (3) When the special magistrate determines that the property appraiser did not establish a
14 presumption of correctness, or determines that the property appraiser established a presumption
15 of correctness that is overcome, as provided in Rule 12D-9.027, F.A.C., and the record contains
16 competent substantial evidence for establishing value, an appraiser special magistrate is required
17 to establish a revised value for the petitioned property. In establishing the revised value when
18 authorized by law, the board or special magistrate is not restricted to any specific value offered
19 by the parties.

20 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
21 194.011, 194.032, 194.034, 194.035, 195.022, 213.05, Chapter 475, Part II FS. History-New .

1 12D-9.012 Training of Special Magistrates, Value Adjustment Board Members, and Legal
2 Counsel.

3 (1) The department shall provide and conduct training for special magistrates at least once
4 each state fiscal year available in at least five locations throughout the state. Such training shall
5 emphasize:

6 (a) The law that applies to the administrative review of assessments;

7 (b) Taxpayer rights in the administrative review process;

8 (c) The composition and operation of the value adjustment board;

9 (d) The roles of the board, board clerk, board legal counsel, special magistrates, and the
10 property appraiser or tax collector and their staff;

11 (e) Procedures for conducting hearings;

12 (f) Administrative reviews of just valuations, classified use valuations, property
13 classifications, exemptions, and portability assessment differences;

14 (g) The review, admissibility, and consideration of evidence;

15 (h) Requirements for written decisions; and

16 (i) The department's standard measures of value, including the guidelines for real and
17 tangible personal property.

18 (2) The training shall be open to the public.

19 (3) Before any hearings are conducted, in those counties that do not use special magistrates,
20 all members of the board or the board's legal counsel must receive the training, including any
21 updated modules, before conducting hearings, but need not complete the training examinations,
22 and shall provide a statement acknowledging receipt of the training to the board clerk.

1 (4)(a) Each special magistrate that has five years of experience and, in those counties that do
2 not use special magistrates, each board member or the board legal counsel must receive the
3 training, including any updated modules, before conducting hearings, but need not complete the
4 training examinations, and shall provide a statement acknowledging receipt of the training to the
5 board clerk.

6 (b) Each special magistrate that has three years of experience must complete the training
7 including any updated modules and examinations, and receive from the department a certificate
8 of completion, before conducting hearings and shall provide a copy of the certificate of
9 completion of the training and examinations, including any updated modules, to the board clerk.

10 (5) The department's training is the official training for special magistrates regarding
11 administrative reviews. The board clerk and board legal counsel may provide orientation to the
12 special magistrates relating to local operating or ministerial procedures only. Such orientation
13 meetings shall be open to the public for observation. This does not prevent board legal counsel
14 from giving legal advice; however, to the fullest extent practicable, such legal advice should be
15 in writing and public record. For requirements for decisions specifically based on legal advice
16 see subsection 12D-9.030(6), and paragraph 12D-9.032(1)(b), F.A.C.

17 (6) Meetings or orientations for special magistrates, for any instructional purposes relating to
18 procedures for hearings, handling or consideration of petitions, evidence, worksheets, forms,
19 decisions or related computer files, must be open to the public for observation. Such meetings or
20 orientations must be reasonably noticed to the public in the same manner as an organizational
21 meeting of the board, or posted as reasonable notice on the board clerk's website.

1 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
2 194.011, 194.032, 194.034, 194.035, 195.022, 195.084, 213.05, Chapter 475, Part II FS. History-
3 New _____.

4
5 12D-9.013 Organizational Meeting of the Value Adjustment Board.

6 (1) The board shall annually hold one or more organizational meetings, at least one of which
7 shall meet the requirements of this section. The board shall hold this organizational meeting prior
8 to the holding of value adjustment board hearings. The board shall provide reasonable notice of
9 each organizational meeting and such notice shall include the date, time, location, purpose of the
10 meeting, and information required by Section 286.0105, F.S. At one organizational meeting the
11 board shall:

12 (a) Introduce the members of the board and provide contact information;

13 (b) Introduce the board clerk or any designee of the board clerk and provide the board clerk's
14 contact information;

15 (c) Appoint or ratify the private board legal counsel. At the meeting at which board counsel
16 is appointed, this item shall be the first order of business;

17 (d) Appoint or ratify special magistrates, if the board will be using them for that year;

18 (e) Make available to the public, special magistrates and board members, Rule Chapter 12D-
19 9, F.A.C., containing the uniform rules of procedure for hearings before value adjustment boards
20 and special magistrates (if applicable), and the associated forms that have been adopted by the
21 department;

22 (f) Make available to the public, special magistrates and board members, Rule Chapter 12D-
23 10, F.A.C., containing the rules applicable to the requirements for hearings and decisions;

1 (g) Make available to the public, special magistrates and board members the requirements of
2 Florida's Government in the Sunshine / open government laws including information on where
3 to obtain the current Government-In-The-Sunshine manual;

4 (h) Discuss, take testimony on and adopt or ratify with any required revision or amendment
5 any local administrative procedures and forms of the board. Such procedures must be ministerial
6 in nature and not be inconsistent with governing statutes, case law, attorney general opinions or
7 rules of the department. All local administrative procedures and forms of the board or special
8 magistrates shall be made available to the public and shall be accessible on the board clerk's
9 website, if any;

10 (i) Discuss general information on Florida's property tax system, respective roles within this
11 system, taxpayer opportunities to participate in the system, and property taxpayer rights;

12 (j) Make available to the public, special magistrates and board members, Rules 12D-51.001,
13 51.002, 51.003, F.A.C., and Chapters 192 through 195, F.S., as reference information containing
14 the guidelines and statutes applicable to assessments and assessment administration;

15 (k) Adopt or ratify by resolution any filing fee for petitions for that year, in an amount not to
16 exceed \$15; and

17 (l) For purposes of this rule, making available to the public means, in addition to having
18 copies at the meeting, the board may refer to a website containing copies of such documents.

19 (2) The board shall announce the tentative schedule for the value adjustment board taking
20 into consideration the number of petitions filed, the possibility of the need to reschedule and the
21 requirement that the board stay in session until all petitions have been heard.

22 (3) The board may hold additional meetings for the purpose of addressing administrative
23 matters.

1 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
2 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 213.05, 286.011, 286.0105 FS. History-
3 New _____.

4
5 12D-9.014 Prehearing Checklist.

6 (1) The board clerk shall not allow the holding of scheduled hearings until the board legal
7 counsel has verified that all requirements in Chapter 194, F.S., and department rules, were met as
8 follows:

9 (a) The composition of the board is as provided by law;

10 (b) Board legal counsel has been appointed as provided by law;

11 (c) Board legal counsel meets the requirements of Section 194.015, F.S.;

12 (d) No board members represent other government entities or taxpayers in any administrative
13 or judicial review of property taxes, and citizen members are not members or employees of a
14 taxing authority, during their membership on the board;

15 (e) In a county that does not use special magistrates, either all board members have received
16 the department's training or board legal counsel has received the department's training;

17 (f) The organizational meeting, as well as any other board meetings, will be or were noticed
18 in accordance with Section 286.011, F.S., and will be or were held in accordance with law;

19 (g) The department's uniform value adjustment board procedures, consisting of this rule
20 chapter, were made available at the organizational meeting and copies were provided to special
21 magistrates and board members;

22 (h) The department's uniform policies and procedures manual is available on the existing
23 website of the board clerk, if the board clerk has a website;

1 Disqualification or Recusal; Ex Parte Communication Prohibition; Record of the Proceeding;
2 Petitions on Transfer of “Portability” Assessment Difference; Remanding Assessments;
3 Recommended Decisions; Consideration and Adoption of Recommended Decisions;
4 Final Decisions; Further Judicial Proceedings.

5
6 12D-9.015 Petition; Form and Filing Fee.

7 (1)(a) For the purpose of requesting a hearing before the value adjustment board, the
8 department prescribes Form DR-486. The Form DR-486 series is adopted and incorporated by
9 reference in Rule 12D-16.002, F.A.C.

10 (b) In accordance with Section 194.011(3), F.S., the department is required to prescribe
11 petition forms. The department will not approve any local version of this form that contains
12 substantive content that varies from the department’s prescribed form. Any requests under
13 Section 195.022, F.S., or approval from the department to use forms for petitions that are not
14 identical to the department’s form shall be by written board action or by written and signed
15 request from the board chair or board legal counsel.

16 (2) Content of Petition. Petition forms as adopted or approved by the department shall
17 contain the following elements so that when filed with the board clerk they shall:

18 (a) Describe the property by parcel number;

19 (b) Be sworn by the petitioner;

20 (c) State the approximate time anticipated by the petitioner for presenting and arguing his or
21 her petition before the board or special magistrate to be considered by the board clerk as
22 provided in subsection 12D-9.019(1), F.A.C., and may provide dates of nonavailability for
23 scheduling purposes if applicable;

1 (d) Contain a space for the petitioner to indicate on the petition form that he or she does not
2 wish to be present and argue the petition before the board or special magistrate but would like to
3 have their evidence considered without an appearance;

4 (e) Provide a check box for the petitioner to request a copy of the property record card;

5 (f)1. Contain a signature field to be signed by the taxpayer, or if the taxpayer is a legal entity,
6 the employee of the legal entity with authority to file such petitions; –

7 2. Contain a signature field to be signed by an authorized agent. If the authorized agent is
8 subject to licensure as described in Rule 12D-9.018, F.A.C., a space to provide identification of
9 the licensing body and license number. If the authorized agent is not subject to licensure, for
10 example a family member, a space to indicate the petition is accompanied by a written
11 authorization of the taxpayer if not otherwise signed by the taxpayer;

12 (g) A space for the petitioner to indicate if the property is four or less residential units; or
13 other property type; provided the board clerk shall accept the petition even if this space is not
14 filled in; and

15 (h) A statement that a tangible personal property assessment may not be contested until a
16 return required by Section 193.052, F.S., is filed.

17 (3) The petition form shall provide notice to the petitioner that the person signing the petition
18 becomes the agent of the taxpayer for the purpose of serving process to obtain personal
19 jurisdiction over the taxpayer for the entire value adjustment board proceeding, including any
20 appeals to circuit court of a board decision by the property appraiser or tax collector.

21 (4) The petition form shall provide notice to the petitioner of his or her right to an informal
22 conference with the property appraiser and that such conference is not a prerequisite to filing a
23 petition nor does it alter the time frame for filing a timely petition.

1 (5) The department, the board clerk, and the property appraiser or tax collector shall make
2 available to petitioners the blank petition form adopted or approved by the department. The
3 department prescribes the Form DR-486 series, for this purpose, incorporated in Rule 12D-
4 16.002, F.A.C., by reference.

5 (6) If the taxpayer or agent's name, address, telephone, or similar contact information on the
6 petition changes after filing the petition and before the hearing, the taxpayer or agent shall notify
7 the board clerk in writing.

8 (7) Filing Fees. By resolution of the value adjustment board, a petition shall be accompanied
9 by a filing fee to be paid to the board clerk in an amount determined by the board not to exceed
10 \$15 for each separate parcel of property, real or personal covered by the petition and subject to
11 appeal.

12 (a) Other than fees required for late filed applications under Sections 193.155(8)(i) and
13 196.011(8), F.S., only a single filing fee shall be charged to any particular parcel of property,
14 despite the existence of multiple issues or hearings pertaining to such parcels.

15 (b) No filing fee shall be required with respect to an appeal from the disapproval of a timely
16 filed application for homestead exemption or from the denial of a homestead tax deferral.

17 (c) For joint petitions filed pursuant to Section 194.011(3)(e) or (f), F.S., a single filing fee
18 shall be charged. Such fee shall be calculated as the cost of the time required for the special
19 magistrate in hearing the joint petition and shall not exceed \$5 per parcel, for each additional
20 parcel included in the petition, in addition to any filing fee for the petition. Said fee is to be
21 proportionately paid by affected parcel owners.

22 (d) The value adjustment board or its designee shall waive the filing fee with respect to a
23 petition filed by a taxpayer who demonstrates at the time of the filing by submitting with the

1 petition documentation issued by the Department of Children and Family Services that the
2 petitioner is currently an eligible recipient of temporary assistance under Chapter 414, F.S.

3 (e) All filing fees shall be paid to the board clerk at the time of filing. Any petition not
4 accompanied by the required filing fee will be deemed incomplete.

5 (8) An owner of contiguous, undeveloped parcels may file a single joint petition if the
6 property appraiser determines such parcels are substantially similar in nature. A condominium
7 association, cooperative association, or any homeowners' association as defined in Section
8 723.075, F.S., with approval of its board of administration or directors, may file with the value
9 adjustment board a single joint petition on behalf of any association members who own parcels
10 of property which the property appraiser determines are substantially similar with respect to
11 location, proximity to amenities, number of rooms, living area, and condition. The property
12 appraiser shall provide the petitioner with such determination upon request by the petitioner. The
13 petitioner must obtain the determination from the property appraiser prior to filing the petition
14 and must file the determination provided and completed by the property appraiser with the
15 petition. An incorporated attached list of parcels by parcel number or account number, with an
16 indication on the petition form showing a joint petition, shall be sufficient to signify a joint
17 petition.

18 (9)(a) The board clerk shall accept for filing any completed petition that is timely submitted
19 on a form approved by the department, with payment if required. If an incomplete petition is
20 received, the board clerk shall notify the petitioner and give the petitioner an opportunity to
21 complete the petition within 10 calendar days. Such completed petition shall be timely if
22 completed and filed within the time frame provided in the board clerk's notice.

1 (b) A “completed” petition is one that provides information for all the required elements that
2 are displayed on the department’s form, and is accompanied by the appropriate filing fee if
3 required.

4 (c) The board clerk shall rely on the licensure information provided by a licensed agent, or
5 written authorization provided by an unlicensed agent, in accepting the petition.

6 (10) Timely Filing of Petitions. Petitions related to valuation issues may be filed at any time
7 during the taxable year on or before the 25th day following the mailing of the notice of proposed
8 property taxes. Other petitions may be filed as follows:

9 (a) With respect to issues involving the denial of an exemption on or before the 30th day
10 following the mailing of the written notification of the denial of the exemption on or before July
11 1 of the year for which the application was filed;

12 (b) With respect to issues involving the denial of an agricultural classification application, on
13 or before the 30th day following the mailing of the notification in writing of the denial of the
14 agricultural classification on or before July 1 of the year for which the application was filed;

15 (c) With respect to issues involving the denial of a high-water recharge classification
16 application on or before the 30th day following the mailing of the notification in writing of the
17 denial of the high-water recharge classification on or before July 1 of the year for which the
18 application was filed;

19 (d) With respect to issues involving the denial of a historic property used for commercial or
20 certain nonprofit purposes classification application, on or before the 30th day following the
21 mailing of the notification in writing of the denial of the classification on or before July 1 of the
22 year for which the application was filed;

1 (e) With respect to issues involving the denial of a homestead tax deferral, on or before the
2 30th day following the mailing of the notification in writing of the denial of the deferral
3 application or on or before the 20th day following receipt of the notification, whichever date is
4 later;

5 (f) With respect to exemption or classification claims relating to an exemption or
6 classification that is not reflected on the notice of property taxes, including late filed exemption
7 claims, on or before the 25th day following the mailing of the notice of proposed property taxes,
8 or on or before the 30th day following the mailing of the written notification of the denial of the
9 exemption or classification, whichever date is later; and

10 (g) With respect to penalties imposed for filing incorrect information relating to tax deferrals
11 for homestead, for recreational and commercial working waterfronts or for affordable rental
12 housing properties, within 30 days after the penalties are imposed.

13 (11) Late Filed Petitions.

14 (a) The board may not extend the time for filing a petition. The board is not authorized to set
15 and publish a deadline for late filed petitions. However, the failure to meet the statutory deadline
16 for filing a petition to the board does not prevent consideration of such a petition by the board or
17 special magistrate when the board or board designee determines that the petitioner has
18 demonstrated good cause justifying consideration and that the delay will not, in fact, be harmful
19 to the performance of board functions in the taxing process. “Good cause” means the verifiable
20 showing of extraordinary circumstances, as follows:

21 1. Personal, family, or business crisis or emergency at a critical time or for an extended
22 period of time that would cause a reasonable person’s attention to be diverted from filing; or

1 2. Physical or mental illness, infirmity, or disability that would reasonably affect the
2 petitioner's ability to timely file; or

3 3. Miscommunication with, or misinformation received from, the board clerk, property
4 appraiser, or their staff regarding the necessity or the proper procedure for filing that would
5 cause a reasonable person's attention to be diverted from timely filing; or

6 4. Any other cause beyond the control of the petitioner that would prevent a reasonably
7 prudent petitioner from timely filing.

8 (b) The board clerk shall accept but not schedule for hearing a petition submitted to the board
9 after the statutory deadline has expired, and shall submit the petition to the board or board
10 designee for good cause consideration if the petition is accompanied by a written explanation for
11 the delay in filing. Unless scheduled together or by the same notice, the decision regarding good
12 cause for late filing of the petition must be made before a hearing is scheduled, and the parties
13 shall be notified of such decision.

14 (c) The board clerk shall forward a copy of completed but untimely filed petitions to the
15 property appraiser or tax collector at the time they are received or upon the determination of
16 good cause.

17 (d) The board is authorized to, but need not, require good cause hearings before good cause
18 determinations are made. The board or a board designee, which includes the board legal counsel
19 or a special magistrate, shall determine whether the petitioner has demonstrated, in writing, good
20 cause justifying consideration of the petition. If the board or a board designee determines that the
21 petitioner has demonstrated good cause, the board clerk shall accept the petition for filing and so
22 notify the petitioner and the property appraiser or the tax collector.

1 (e) If the board or a board designee determines that the petitioner has not demonstrated good
2 cause, or if the petition is not accompanied by a written explanation for the delay in filing, the
3 board clerk shall notify the petitioner and the property appraiser or tax collector.

4 (f) A person who files a petition may timely file an action in circuit court to preserve the right
5 to proceed in circuit court. (Sections 193.155(8)(k), 194.036, 194.171(2), and 196.151, F.S.).

6 (12) Acknowledgement of Timely Filed Petitions. The board clerk shall accept all completed
7 petitions, as defined by statute and subsection (2) of this rule. Upon receipt of a completed and
8 filed petition, the board clerk shall provide to the petitioner an acknowledgment of receipt of
9 such petition and shall provide to the property appraiser or tax collector a copy of the petition. If,
10 in the petition, the petitioner requested a copy of the property record card, the property appraiser
11 shall forward a copy of the property record card to the board clerk. The board clerk shall then
12 provide to the petitioner a copy of the property record card, along with the notice of hearing.

13 (13) The board clerk shall send the notice of hearing such that it will be received by the
14 petitioner no less than twenty-five (25) calendar days prior to the day of such scheduled
15 appearance. The board clerk will have prima facie complied with the requirements of this section
16 if the notice was deposited in the U.S. mail thirty (30) days prior to the day of such scheduled
17 appearance.

18 (14) Copies of the forms incorporated in Rule 12D-16.002, F.A.C., may be obtained at the
19 Department's Internet site: <http://dor.myflorida.com/dor/property/forms/>.
20 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
21 193.155, 194.011, 194.013, 194.032, 194.034, 194.036, 194.171, 195.022, 195.084, 196.151,
22 197.253, 197.301, 197.3041, 197.3047, 197.3073, 197.3079, 200.069, 213.05 FS. History-New .

23

1 12D-9.016 Filing and Service.

2 (1) In construing these rules or any order of the board, special magistrate, or a board
3 designee, filing shall mean received by the board clerk during open hours or by the board, special
4 magistrate, or a board designee during a meeting or hearing.

5 (2)(a) Any hand-delivered or mailed document received by the office of the board clerk after
6 close of business as determined by the board clerk shall be filed the next regular business day.

7 (b) If the board clerk accepts documents filed by FAX or other electronic transmission,
8 documents received on or after 11:59:59 P.M. of the day they are due shall be filed the next
9 regular business day.

10 (c) Any document that is required to be filed, served, provided or made available may be
11 filed, served, provided or made available electronically, if the board and the board clerk make
12 such resources available, and no party is prejudiced.

13 (d) Local procedure may supersede provisions regarding the number of copies that must be
14 provided.

15 (3) When a party files a document with the board, other than the petition, that party shall
16 serve copies of the document to all parties in the proceeding. When a document is filed that does
17 not clearly indicate it has been provided to the other party, the board clerk, board legal counsel,
18 board members and special magistrates shall inform the party of the requirement to provide to
19 every party or shall exercise care to ensure that a copy is provided to every party, and that no ex
20 parte communication occurs.

21 (4) Any party who elects to file any document by FAX or other electronic transmission shall
22 be responsible for any delay, disruption, or interruption of the electronic signals and accepts the
23 full risk that the document may not be properly filed with the board clerk as a result.

1 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
2 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 195.022, 195.084, 213.05 FS. History-
3 New _____.

4
5 12D-9.017 Ex Parte Communication Prohibition.

6 (1)(a) No participant, including the petitioner, the property appraiser, the board clerk, the
7 special magistrate, a member of a value adjustment board, or other person directly or indirectly
8 interested in the proceeding, nor anyone authorized to act on behalf of any party shall
9 communicate with a member of the board or the special magistrate regarding the issues in the
10 case without the other party being present or without providing a copy of any written
11 communication to the other party.

12 (b) This rule shall not prohibit internal communications among the board clerk, board,
13 special magistrates, and board legal counsel, regarding internal operations of the board and other
14 administrative matters. The special magistrate is specifically authorized to communicate with the
15 board's legal counsel or board clerk on legal matters or other issues regarding a petition.

16 (2) Any attempt by the property appraiser, tax collector, taxpayer or taxpayer's agent to
17 provide information or discuss issues regarding a petition without the presence of the opposing
18 party before or after the hearing, with a member of the board or the special magistrate shall be
19 immediately placed on the record by the board member or special magistrate.

20 (3) The ex parte communication shall not be considered by the board or the special
21 magistrate unless all parties have been notified about the ex parte communication, and no party
22 objects, and all parties have an opportunity during the hearing to cross-examine, object, or
23 otherwise address the communication.

1 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
2 194.011, 194.015, 194.032, 194.034, 194.035, 213.05 FS. History-New .

3
4 12D-9.018 Representation of the Taxpayer.

5 (1) A taxpayer has the right, at the taxpayer's own expense, to be represented by an attorney
6 or by an agent.

7 (2) The individual, agent, or legal entity that signs the petition becomes the agent of the
8 taxpayer for the purpose of serving process to obtain jurisdiction over the taxpayer for the entire
9 value adjustment board proceedings, including any appeals of a board decision by the property
10 appraiser or tax collector.

11 (3) The agent need not be a licensed individual or person with specific qualifications and
12 may be any person, including a family member, authorized by the taxpayer to represent them
13 before the value adjustment board.

14 (4) A petition filed by an unlicensed agent must also be signed by the taxpayer or
15 accompanied by a written authorization from the taxpayer.

16 (5) As used in this rule chapter, the term "licensed" refers to holding a license or certification
17 under Chapter 475, Part I or Part II, F.S., being a Florida certified public accountant under
18 Chapter 473, F.S., or membership in the Florida Bar.

19 (6) When duplicate petitions are filed on the same property, the board clerk shall contact the
20 owner and all petitioners to resolve the issue.

21 (7) The board clerk may require the use of an agent number to facilitate scheduling of
22 hearings as long as such use is not inconsistent with this rule.

23 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented

1 194.011, 194.013, 194.032, 194.034, 195.022, 195.084, 213.05, Chapter 473, Chapter 475, Part I
2 and II FS. History-New .

3
4 12D-9.019 Scheduling and Notice of a Hearing.

5 (1)(a) The board clerk shall prepare a schedule of appearances before the board or special
6 magistrates based on timely filed petitions, and shall notify each petitioner of the scheduled time
7 of appearance. The board clerk shall simultaneously notify the property appraiser or tax
8 collector. The board clerk may electronically send this notification to the petitioner, if the
9 petitioner indicates on his or her petition this means of communication for receiving notices,
10 materials, and communications.

11 (b) When scheduling hearings, the board clerk shall consider:

12 1. The anticipated amount of time if indicated on the petition;

13 2. The experience of the petitioner;

14 3. The complexity of the issues or the evidence to be presented;

15 4. The number of petitions/parcels to be heard at a single hearing;

16 5. The efficiency or difficulty for the petitioner of grouping multiple hearings for a single
17 petitioner on the same day; and

18 6. The likelihood of withdrawals, cancellations of hearings or failure to appear.

19 (c) Upon request of a party, the board clerk shall consult with the petitioner and the property
20 appraiser or tax collector to ensure that, within the board clerk's judgment, an adequate amount
21 of time is provided for presenting and considering evidence.

22 (2) No hearing shall be scheduled related to valuation issues prior to completion by the
23 governing body of each taxing authority of the public hearing on the tentative budget and

1 proposed millage rate.

2 (3)(a) The notice of hearing before the value adjustment board shall be in writing, and shall
3 be delivered by regular or certified U.S. mail or personal delivery, or in the manner requested by
4 the petitioner on Form DR-486, so that the notice shall be received by the petitioner no less than
5 twenty-five (25) calendar days prior to the day of such scheduled appearance. The Form DR-486
6 series is adopted and incorporated by reference in Rule 12D-16.002, F.A.C. The notice of
7 hearing form shall meet the requirements of this section and shall be subject to approval by the
8 department. The department provides Form DR-481 as a format for the form of such notice.
9 Form DR-481 is adopted and incorporated by reference in Rule 12D-16.002, F.A.C. The notice
10 shall include these elements:

11 1. The parcel number, account number or legal address of all properties being heard at the
12 scheduled hearing;

13 2. The type of hearing scheduled;

14 3. The date and time of the scheduled hearing;

15 4. The time reserved, or instructions on how to obtain this information;

16 5. The location of the hearing, including the hearing room number if known, together with
17 board clerk contact information including office address and telephone number, for petitioners to
18 request assistance in finding hearing rooms;

19 6. Instructions on how to obtain a list of the potential special magistrates for the type of
20 petition in question;

21 7. A statement of the petitioner's right to participate in the exchange of evidence with the
22 property appraiser;

23 8. A statement that the petitioner has the right to reschedule the hearing one time by making a

1 written request to the board clerk at least five calendar days before the hearing;

2 9. Instructions on bringing copies of evidence;

3 10. Any information necessary to comply with federal or state disability or accessibility acts;

4 and

5 11. Information regarding where the petitioner may obtain a copy of the uniform rules of
6 procedure.

7 (b) If the petitioner has requested a copy of the property record card, it shall be sent no later
8 than the time at which the notice of hearing is sent.

9 (4)(a) The petitioner may reschedule the hearing without good cause one time by submitting
10 a written request to the board clerk no fewer than five (5) calendar days before the scheduled
11 appearance. To calculate the five (5) days, the petitioner shall use calendar days and shall not
12 include the day of the hearing in the calculation, and shall count backwards from the day of the
13 hearing. The last day of the period so computed shall be included unless it is a Saturday, Sunday,
14 or legal holiday, in which event the period shall run until the end of the next previous day which
15 is neither a Saturday, Sunday, or legal holiday.

16 (b) A petitioner may request a rescheduling of a hearing for good cause by submitting a
17 written request to the board clerk before the scheduled appearance or as soon as practicable. A
18 rescheduling for good cause shall not be treated as the one time rescheduling to which a
19 petitioner has a right upon timely request under Section 194.032(2), F.S. Reasons for “good
20 cause” that a board clerk or board designee may consider in providing for a rescheduling are:

21 1. Petitioner is scheduled for a value adjustment board hearing for the same time in another
22 jurisdiction;

23 2. Illness of the petitioner or a family member;

1 3. Death of a family member;

2 4. The taxpayer's hearing does not begin within a reasonable time of their scheduled hearing
3 time; or

4 5. Other reasons beyond the control of the petitioner.

5 (c) The property appraiser or tax collector may submit a written request to the board clerk to
6 reschedule the hearing, and must provide a copy of the request to the petitioner. If there is a
7 conflict, such as the attorney or staff needs to attend two different hearings which are scheduled
8 at the same time, the property appraiser or tax collector may request a reschedule.

9 (5) A request to reschedule the hearing made by the petitioner fewer than five calendar days
10 before the scheduled hearing may be made only for an emergency when good cause is shown.
11 Such a request shall be made to the board clerk who shall forward the request to the board or a
12 board designee, which includes the board clerk, board legal counsel or a special magistrate.

13 (a) If the board or a board designee determines that the request does not show good cause, the
14 request will be denied and the board may proceed with the hearing as scheduled.

15 (b) If the board or a board designee determines that the request demonstrates good cause, the
16 request will be granted. In that event, the board clerk will issue a notice of hearing with the new
17 hearing date, which shall be the earliest date that is convenient for all parties.

18 (c) The board clerk shall give appropriate notice to the petitioner of the determination as to
19 good cause. Form DR-485WCN is designated and may be used for this purpose. Form DR-
20 485WCN is adopted and incorporated by reference in Rule 12D-16.002, F.A.C. The board clerk
21 shall also appropriately notify the property appraiser or tax collector.

22 (d) When rescheduling hearings under this rule subsection or subsection (4) above, if the
23 parties are unable to agree on an earlier date, the board clerk is authorized to schedule the

1 hearing and send a notice of such hearing by regular or certified U.S. mail or personal delivery,
2 or in the manner requested by the petitioner on the petition Form DR-486, so that the notice shall
3 be received by the petitioner no less than twenty-five (25) calendar days prior to the day of such
4 scheduled appearance. The board clerk is responsible for notifying the parties of any
5 rescheduling.

6 (6) If a hearing is rescheduled, the deadlines for the exchange of evidence shall be computed
7 from the new hearing date, if time permits.

8 (7)(a) If a petitioner's hearing does not commence as scheduled, the board clerk is authorized
9 to determine good cause exists to reschedule a petition.

10 (b) In no event shall a petitioner be required to wait more than a reasonable time from the
11 scheduled time to be heard. The board clerk is authorized to find that a reasonable time has
12 elapsed based on other commitments, appointments or hearings of the petitioner, lateness in the
13 day, and other hearings waiting to be heard earlier than the petitioner's hearing with the board or
14 special magistrate. If his or her petition has not been heard within a reasonable time, the
15 petitioner may request to be heard immediately. If the board clerk finds a reasonable time has
16 elapsed and petitioner is not heard, the board clerk shall find good cause is present and shall
17 reschedule the petitioner's hearing.

18 (c) A petitioner is not required to wait any length of time as a prerequisite to filing an action
19 in circuit court.

20 (8) Copies of the forms incorporated in Section 12D-16.002, F.A.C., may be obtained at the
21 Department's Internet site: <http://dor.myflorida.com/dor/property/forms/>.

22 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
23 194.011, 194.015, 194.032, 194.034, 195.022, 213.05 FS. History-New _____.

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12D-9.020 Exchange of Evidence.

(1) The petitioner has the option of participating in an exchange of evidence with the property appraiser. If the petitioner chooses not to participate in the evidence exchange, the petitioner may still present evidence for consideration by the board or the special magistrate. However, as described in this section, if the property appraiser asks in writing for specific evidence before the hearing in connection with a filed petition, and the petitioner has this evidence and knowingly refuses to provide it to the property appraiser a reasonable time before the hearing, the evidence cannot be presented by the petitioner or accepted for consideration by the board or special magistrate. Reasonableness shall be determined by whether the material can be reviewed, investigated, and responded to or rebutted in the time frame remaining before the hearing. These requirements are more specifically described in subsection (8) of this rule and in Rule 12D-9.025(4)(a) and (f), F.A.C.

(2)(a) If the petitioner chooses to participate in an exchange of evidence with the property appraiser, at least fifteen (15) days before the hearing, the petitioner shall provide the property appraiser with a list and summary of evidence to be presented at the hearing accompanied by copies of documentation to be presented at the hearing. To calculate the fifteen (15) days, the petitioner shall use calendar days and shall not include the day of the hearing in the calculation, and shall count backwards from the day of the hearing.

(b) If the petitioner chooses to participate in an exchange of evidence with the property appraiser and he or she shows good cause to the board clerk for not being able to meet the fifteen (15) day requirement and the property appraiser is unwilling to agree to a different timing of the

1 exchange, the board clerk is authorized to reschedule the hearing to allow for the exchange of
2 evidence to occur.

3 (c) No later than seven (7) days before the hearing, if the property appraiser receives the
4 petitioner's documentation and if requested in writing by the petitioner, the property appraiser
5 shall provide the petitioner with a list and summary of evidence to be presented at the hearing
6 accompanied by copies of documentation to be presented by the property appraiser at the
7 hearing. The evidence list must contain the property record card if provided by the board clerk.
8 To calculate the seven (7) days, the property appraiser shall use calendar days and shall not
9 include the day of the hearing in the calculation, and shall count backwards from the day of the
10 hearing.

11 (d) The last day of the period so computed shall be included unless it is a Saturday, Sunday,
12 or legal holiday, in which event the period shall run until the end of the next previous day which
13 is neither a Saturday, Sunday, or legal holiday.

14 (3)(a) If the petitioner does not provide the information to the property appraiser at least
15 fifteen (15) days prior to the hearing pursuant to paragraph (2)(a), the property appraiser need not
16 provide the information to the petitioner pursuant to paragraph (2)(c).

17 (b) If the property appraiser does not provide the information within the time required by
18 paragraph (2)(c), the hearing shall be rescheduled to allow the petitioner additional time to
19 review the property appraiser's evidence.

20 (4) By agreement of the parties the evidence exchanged in subsection (2) shall be delivered
21 by regular or certified U.S. mail, personal delivery, overnight mail, FAX or email. The petitioner
22 and property appraiser may agree to a different timing and method of exchange. "Provided"
23 means received by the party not later than the time frame provided in this rule section. If either

1 party does not designate a desired manner for receiving information in the evidence exchange,
2 the information shall be provided by U.S. mail. The property appraiser shall provide the
3 information at the address listed on the petition form for the petitioner.

4 (5) Level of detail on evidence summary: The summary pursuant to subsection (2) shall be
5 sufficiently detailed as to reasonably inform a party of the general subject matter of the witness'
6 testimony, and the name and address of the witness.

7 (6) Hearing procedures: Neither the board nor the special magistrate shall take any general
8 action regarding compliance with this section, but any action on each petition shall be considered
9 on a case by case basis. Any action shall be based on a consideration of whether there has been a
10 substantial noncompliance with this section, and shall be taken at a scheduled hearing and based
11 on evidence presented at such hearing. "General action" means a prearranged course of conduct
12 not based on evidence received in a specific case at a scheduled hearing on a petition.

13 (7) A property appraiser shall not use at a hearing evidence that was not supplied to the
14 petitioner as required. The remedy for such noncompliance shall be a rescheduling of the hearing
15 to allow the petitioner an opportunity to review the information of the property appraiser.

16 (8) No petitioner may present for consideration, nor may a board or special magistrate accept
17 for consideration, testimony or other evidentiary materials that were specifically requested of the
18 petitioner in writing by the property appraiser in connection with a filed petition, of which the
19 petitioner had knowledge and denied to the property appraiser. Such evidentiary materials shall
20 be considered timely if provided to the property appraiser no later than fifteen (15) days before
21 the hearing in accordance with the exchange of evidence rules in this section. If provided to the
22 property appraiser less than fifteen (15) days before the hearing, such materials shall be
23 considered timely if the board or special magistrate determines they were provided a reasonable

1 time before the hearing, as described in paragraph` 12D-9.025(4)(f), F.A.C. A petitioner's ability
2 to introduce the evidence, requested of the petitioner in writing by the property appraiser, is lost
3 if not provided to the property appraiser as described in this paragraph. This provision does not
4 preclude rebuttal evidence that was not specifically requested of the petitioner by the property
5 appraiser.

6 (9) As the trier of fact, the board or special magistrate may independently rule on the
7 admissibility and use of evidence. If the board or special magistrate has any questions relating to
8 the admissibility and use of evidence, the board or special magistrate should consult with the
9 board legal counsel. The basis for any ruling on admissibility of evidence must be reflected in
10 the record.

11 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
12 193.074, 194.011, 194.015, 194.032, 194.034, 194.035, 195.022, 195.084, 200.069, 213.05 FS.
13 History–New _____.

14
15 12D-9.021 Withdrawn or Settled Petitions; Petitions Acknowledged as Correct; Non-
16 Appearance; Summary Disposition of Petitions.

17 (1) A petitioner may withdraw a petition prior to the scheduled hearing. Form DR-485WI is
18 prescribed by the department for such purpose; however, other written or electronic means may
19 be used. Form DR-485WI is adopted and incorporated by reference in Rule 12D-16.002, F.A.C.
20 Form DR-485WI shall indicate the reason for the withdrawal as one of the following:

- 21 (a) Petitioner agrees with the determination of the property appraiser or tax collector;
22 (b) Petitioner and property appraiser or tax collector have reached a settlement of the issues;
23 (c) Petitioner does not agree with the decision or assessment of the property appraiser or tax

1 collector but no longer wishes to pursue a remedy through the value adjustment board process; or

2 (d) Other specified reason.

3 (2) The board clerk shall cancel the hearing upon receiving a notice of withdrawal from the
4 petitioner and there shall be no further proceeding on the matter.

5 (3) If a property appraiser or tax collector agrees with a petition challenging a decision to
6 deny an exemption, classification, portability assessment difference transfer, or deferral, the
7 property appraiser or tax collector shall issue the petitioner a notice granting said exemption,
8 classification, portability assessment difference transfer, or deferral and shall file with the board
9 clerk a notice that the petition was acknowledged as correct. The board clerk shall cancel the
10 hearing upon receiving the notice of acknowledgement and there shall be no further proceeding
11 on the matter acknowledged as correct.

12 (4) If parties do not file a notice of withdrawal or notice of acknowledgement but indicate the
13 same at the hearing, the board or special magistrate shall so state on the hearing record and shall
14 not proceed with the hearing and shall not issue a decision. If a petition is withdrawn or
15 acknowledged as correct under subsection (1), (2), or (3), or settlement is reached and filed by
16 the parties, at any time before a recommended decision or final board decision is issued, the
17 board, special magistrate or clerk need not issue such decision. The board clerk shall list and
18 report all withdrawals, settlements, acknowledgements of correctness as withdrawn or settled
19 petitions. Settled petitions shall include those acknowledged as correct by the property appraiser
20 or tax collector.

21 (5) For all withdrawn or settled petitions, a special magistrate shall not produce a
22 recommended decision and the board shall not produce a final decision.

1 (6) When a petitioner does not appear by the commencement of a scheduled hearing and the
2 petitioner has not indicated a desire to have their petition heard without their attendance and a
3 good cause request is not pending, the board or the special magistrate shall not commence or
4 proceed with the hearing and shall produce a decision or recommended decision as described in
5 this section. If the petitioner makes a good cause request before the decision, if no special
6 magistrate is used, or recommended decision, if a special magistrate is used, is issued, the board
7 or board designee shall rule on the good cause request before determining that the decision or
8 recommended decision should be set aside and that the hearing should be rescheduled, or that the
9 board or special magistrate should issue the decision or recommended decision.

10 (7) When a petitioner does not appear by the commencement of a scheduled hearing and a
11 good cause request is pending, the board or board designee shall rule on the good cause request
12 before determining that the hearing should be rescheduled or that the board or special magistrate
13 should issue a decision or recommended decision.

14 (a) If the board or board designee finds good cause for the petitioner's failure to appear, the
15 board clerk shall reschedule the hearing.

16 (b) If the board or board designee does not find good cause for the petitioner's failure to
17 appear, the board or special magistrate shall issue a decision or recommended decision.

18 (8) Decisions issued under subsection (6) or subsection (7) shall not be treated as withdrawn
19 or settled petitions and shall contain:

20 (a) A finding of fact that the petitioner did not appear at the hearing and did not state good
21 cause; and

22 (b) A conclusion of law that the relief is denied and the decision is being issued in order that
23 any right the petitioner may have to bring an action in circuit court is not impaired.

1 (9) Copies of the forms incorporated in Rule 12D-16.002, F.A.C., may be obtained at the
2 Department's Internet site: <http://dor.myflorida.com/dor/property/forms/>.
3 Rulemaking Authority 194.011(5), 194.034(1), 194.034, 195.027(1) FS. Law Implemented
4 193.155, 194.011, 194.032, 194.037, 213.05 FS. History--New _____.

5
6 12D-9.022 Disqualification or Recusal of Special Magistrates or Board Members.

7 (1) If either the petitioner or the property appraiser communicates a reasonable belief that a
8 special magistrate does not possess the statutory qualifications in accordance with Sections
9 194.035 and 475.611(1)(h) and (i), F.S., to conduct a particular proceeding, the basis for that
10 belief shall be included in the record of the proceeding or submitted prior to the hearing in
11 writing to the board legal counsel.

12 (2)(a) Upon review, if the board or its legal counsel determines that the original special
13 magistrate does not meet the statutory requirements and qualifications, the board or legal counsel
14 shall enter into the record an instruction to the board clerk to reschedule the petition before a
15 different special magistrate to hear or rehear the petition without considering actions that may
16 have occurred during any previous hearing.

17 (b) Upon review, if the board or its legal counsel determines that the special magistrate does
18 meet the statutory requirements and qualifications, such determination shall be issued in writing
19 and placed in the record, and the special magistrate will conduct the hearing, or, if a hearing was
20 already held, the recommended decision will be forwarded to the board in accordance with these
21 rules.

22 (3) Board members and special magistrates shall recuse themselves from hearing a petition
23 when they have a conflict of interest or an appearance of a conflict of interest.

1 (4)(a) If either the petitioner or the property appraiser communicates a reasonable belief that
2 a board member or special magistrate has a bias, prejudice or conflict of interest, the basis for
3 that belief shall be stated in the record of the proceeding or submitted prior to the hearing in
4 writing to the board legal counsel.

5 (b) If the board member or special magistrate agrees with the basis stated in the record, the
6 board member or special magistrate shall recuse himself or herself on the record. A special
7 magistrate who recuses himself or herself shall close the hearing on the record and notify the
8 board clerk of the recusal. Upon a board member's recusal, the hearing shall go forward if there
9 is a quorum. Upon a special magistrate's recusal, or a board member's recusal that results in a
10 quorum not being present, the board clerk shall reschedule the hearing.

11 (c) If the board member or special magistrate questions the need for recusal, the board
12 member or special magistrate shall request an immediate determination on the matter from the
13 board's legal counsel.

14 (d) Upon review, if the board legal counsel:

15 1. Determines that a recusal is necessary, the board member or special magistrate shall recuse
16 himself or herself and the board clerk shall reschedule the hearing; or

17 2. Is uncertain whether recusal is necessary, the board member or special magistrate shall
18 recuse himself or herself and the board clerk shall reschedule the hearing; or

19 3. Determines the recusal is unnecessary, the board legal counsel shall set forth the basis
20 upon which the request was not based on sufficient facts or reasons.

21 (e) In a rescheduled hearing, the board or special magistrate shall not consider any actions
22 that may have occurred during any previous hearing on the same petition.

1 (5) A rescheduling for disqualification or recusal shall not be treated as the one time
2 rescheduling to which a petitioner has a right upon timely request under Section 194.032(2), F.S.
3 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
4 194.011, 194.032, 194.034, 194.035, 213.05, 475.611, FS. History-New _____.

5
6 12D-9.023 Hearings Before Board or Special Magistrates.

7 (1) Hearing rooms, office space, computer systems, personnel, and other resources used for
8 any of the board’s functions shall be controlled by the board through the board clerk of the value
9 adjustment board. The board clerk shall perform his or her duties in a manner to avoid the
10 appearance of a conflict of interest. The board clerk shall not use the resources of the property
11 appraiser’s or tax collector’s office and shall not allow the property appraiser or tax collector to
12 control or influence any part of the value adjustment board process.

13 (2) Boards and special magistrates shall adhere as closely as possible to the schedule of
14 hearings established by the board clerk but must ensure that adequate time is allowed for parties
15 to present evidence and for the board or special magistrate to consider the admitted evidence. If
16 the board or special magistrate determines from the petition form that the hearing has been
17 scheduled for less time than the petitioner requested on the petition, the board or special
18 magistrate must consider whether the hearing should be extended or continued to provide
19 additional time.

20 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
21 194.011, 194.032, 194.034, 195.022, 195.084, 213.05 FS. History-New _____.

22
23 12D-9.024 Procedures for Commencement of a Hearing.

1 (1) If all parties are present and the petition is not withdrawn or settled, a hearing on the
2 petition shall commence.

3 (2) The hearing shall be open to the public.

4 (3) Upon the request of either party, a special magistrate shall swear in all witnesses in that
5 proceeding on the record. Upon such request and if the witness has been sworn in during an
6 earlier hearing, it shall be sufficient for the special magistrate to remind the witness that he or she
7 is still under oath.

8 (4) Before or at the start of the hearing, the board, the board's designee or the special
9 magistrate shall give a short overview verbally or in writing of the rules of procedure and any
10 administrative issues necessary to conduct the hearing.

11 (5) Before or at the start of the hearing, unless waived by the parties, the board or special
12 magistrate shall make an opening statement or provide a brochure or taxpayer information sheet
13 that:

14 (a) States the board or special magistrate is an independent, impartial, and unbiased hearing
15 body or officer, as applicable;

16 (b) States the board or special magistrate does not work for the property appraiser or tax
17 collector, is independent of the property appraiser or tax collector, and is not influenced by the
18 property appraiser or tax collector;

19 (c) States the hearing will be conducted in an orderly, fair, and unbiased manner;

20 (d) States that the law does not allow the board or special magistrate to review any evidence
21 unless it is presented on the record at the hearing or presented upon agreement of the parties
22 while the record is open; and

1 (e) States that the law requires the board or special magistrate to evaluate the relevance and
2 credibility of the evidence in deciding the results of the petition.

3 (6) The board or special magistrate shall ask the parties if they have any questions regarding
4 the verbal or written overview of the procedures for the hearing.

5 (7) After the opening statement, and clarification of any questions with the parties, the board
6 or special magistrate shall proceed with the hearing. The property appraiser shall indicate for the
7 record his or her determination of just value, classified use value, tax exemption, property
8 classification, or “portability” assessment difference, or deferral or penalties. Under subsection
9 194.301(1), F.S., in a hearing on just, classified use, or assessed value, the first issue to be
10 considered is whether the property appraiser establishes a presumption of correctness for the
11 assessment. The property appraiser shall present evidence on this issue first.

12 (8) If at any point in a hearing or proceeding the petitioner withdraws the petition or the
13 parties agree to settlement, the petition becomes a withdrawn or settled petition and the hearing
14 or proceeding shall end. The board or special magistrate shall state or note for the record that the
15 petition is withdrawn or settled, shall not proceed with the hearing, shall not consider the
16 petition, and shall not produce a decision or recommended decision.

17 (9)(a) If the petitioner does not appear by the commencement of a scheduled hearing, the
18 board or special magistrate shall not commence the hearing and shall proceed under the
19 requirements set forth in subsection 12D-9.021(6), F.A.C., unless:

20 1. The petition is on a “portability” assessment difference transfer in which the previous
21 homestead is the subject of the petition and is located in a county other than the county where the
22 new homestead is located. Requirements specific to hearings on such petitions are set forth in
23 subsection 12D-9.028(6), F.A.C.; or

1 2. The petitioner has indicated that he or she does not wish to appear at the hearing, but
2 would like for the board or special magistrate to consider evidence submitted by the petitioner.

3 (b) A petitioner who has indicated that he or she does not wish to appear at the hearing, but
4 would like for the board or special magistrate to consider his or her evidence, shall submit his or
5 her evidence to the board clerk and property appraiser before the hearing. The board clerk shall:

6 1. Keep the petitioner's evidence as part of the petition file;

7 2. Notify the board or special magistrate before or at the hearing that the petitioner has
8 indicated he or she will not appear at the hearing, but would like for the board or special
9 magistrate to consider his or her evidence at the hearing; and

10 3. Give the evidence to the board or special magistrate at the beginning of the hearing.

11 (10) If the property appraiser or tax collector does not appear by the commencement of a
12 scheduled hearing, except a good cause hearing, the board or special magistrate shall state on the
13 record that the property appraiser or tax collector did not appear at the hearing. Then, the board
14 or special magistrate shall request the petitioner to state for the record whether he or she wants to
15 have the hearing rescheduled or wants to proceed with the hearing without the property appraiser
16 or tax collector. If the petitioner elects to have the hearing rescheduled, the board clerk shall
17 reschedule the hearing. If the petitioner elects to proceed with the hearing without the property
18 appraiser or tax collector, the board or special magistrate shall proceed with the hearing and shall
19 produce a decision or recommended decision.

20 (11) In any hearing conducted without one of the parties present, the board or special
21 magistrate must take into consideration the inability of the opposing party to cross-examine the
22 non-appearing party in determining the sufficiency of the evidence of the non-appearing party.

1 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
2 194.011, 194.032, 194.034, 195.022, 195.084, 213.05 FS. History-New .

3
4 12D-9.025 Procedures for Conducting a Hearing; Presentation of Evidence; Testimony of
5 Witnesses.

6 (1) As part of administrative reviews, the board or special magistrate must:

7 (a) Review the evidence presented by the parties;

8 (b) Determine whether the evidence presented is admissible;

9 (c) Admit the evidence that is admissible, and identify the evidence presented to indicate that
10 it is admitted or not admitted; and

11 (d) Consider the admitted evidence.

12 (2)(a) In these rules, the term “admitted evidence” means evidence that has been admitted
13 into the record for consideration by the board or special magistrate. Board and special magistrate
14 proceedings are not controlled by strict rules of evidence and procedure. Formal rules of
15 evidence shall not apply, but fundamental due process shall be observed and shall govern the
16 proceedings.

17 (b) For administrative reviews, “relevant evidence” is evidence that is reasonably related,
18 directly or indirectly, to the statutory criteria that apply to the issue under review. This
19 description means the evidence meets or exceeds a minimum level of relevance necessary to be
20 admitted for consideration, but does not necessarily mean that the evidence has sufficient
21 relevance to legally justify a particular conclusion.

22 (c) Rebuttal evidence is relevant evidence used solely to disprove or contradict the original
23 evidence presented by an opposing party.

1 (d) As the trier of fact, the board or special magistrate may independently rule on the
2 admissibility and use of evidence. If the board or special magistrate has any questions relating to
3 the admissibility and use of evidence, the board or special magistrate should consult with the
4 board legal counsel. The basis for any ruling on admissibility of evidence must be reflected in
5 the record. The special magistrate may delay ruling on the question during the hearing and
6 consult with board legal counsel after the hearing.

7 (3)(a) In a board or special magistrate hearing, the petitioner is responsible for presenting
8 relevant and credible evidence in support of his or her belief that the property appraiser’s
9 determination is incorrect. The property appraiser is responsible for presenting relevant and
10 credible evidence in support of his or her determination.

11 (b) Under Section 194.301, F.S., “preponderance of the evidence” is the standard of proof
12 that applies in assessment challenges. The “clear and convincing evidence” standard of proof no
13 longer applies, starting with 2009 assessments. A taxpayer shall never have the burden of
14 proving that the property appraiser’s assessment is not supported by any reasonable hypothesis
15 of a legal assessment.

16 (4)(a) No evidence shall be considered by the board or special magistrate except when
17 presented and admitted during the time scheduled for the petitioner’s hearing, or at a time when
18 the petitioner has been given reasonable notice. The petitioner may still present evidence if he or
19 she does not participate in the evidence exchange. However, if the property appraiser asks in
20 writing for specific evidence before the hearing in connection with a filed petition, and the
21 petitioner has this evidence and refuses to provide it to the property appraiser, the evidence
22 cannot be presented by the petitioner or accepted for consideration by the board or special
23 magistrate. These requirements are more specifically described in paragraph (f) below.

1 (b) If a party submits evidence to the board clerk prior to the hearing, the board or special
2 magistrate shall not review or consider such evidence prior to the hearing.

3 (c) In order to be reviewed by the board or special magistrate, any evidence filed with the
4 board clerk shall be brought to the hearing by the party. This requirement shall not apply where:

5 1. A petitioner does not appear at a hearing on a “portability” assessment difference transfer
6 petition in which the previous homestead is the subject of the petition and is located in a county
7 other than the county where the new homestead is located. Requirements specific to hearings on
8 such petitions are set forth in subsection 12D-9.028(6), F.A.C.; or

9 2. A petitioner has indicated that he or she does not wish to appear at the hearing but would
10 like for the board or special magistrate to consider evidence submitted by the petitioner.

11 (d) A petitioner who has indicated that he or she does not wish to appear at the hearing, but
12 would like for the board or special magistrate to consider his or her evidence, shall submit his or
13 her evidence to the board clerk before the hearing. The board clerk shall:

14 1. Keep the petitioner’s evidence as part of the petition file;

15 2. Notify the board or special magistrate before or at the hearing that the petitioner has
16 indicated he or she will not appear at the hearing, but would like for the board or special
17 magistrate to consider his or her evidence at the hearing; and

18 3. Give the evidence to the board or special magistrate at the beginning of the hearing.

19 (e) The board clerk may provide an electronic system for the filing and retrieval of evidence
20 for the convenience of the parties, but such evidence shall not be considered part of the record
21 and shall not be reviewed by the board or special magistrate until presented at a hearing. Any
22 exchange of evidence should occur between the parties and such evidence is not part of the
23 record until presented by the offering party and deemed admissible at the hearing.

1 (f)1. No petitioner shall present for consideration, nor shall the board or special magistrate
2 accept for consideration, testimony or other evidentiary materials that were specifically requested
3 of the petitioner in writing by the property appraiser in connection with a filed petition, of which
4 the petitioner had knowledge and denied to the property appraiser. Such evidentiary materials
5 shall be considered timely if provided to the property appraiser no later than fifteen (15) days
6 before the hearing in accordance with the exchange of evidence rules in Rule 12D-9.020, F.A.C.,
7 and, if provided to the property appraiser less than fifteen (15) days before the hearing, shall be
8 considered timely if the board or special magistrate determines they were provided a reasonable
9 time before the hearing. A petitioner's ability to introduce the evidence, requested of the
10 petitioner in writing by the property appraiser, is lost if not provided to the property appraiser as
11 described in this paragraph. This provision does not preclude rebuttal evidence that was not
12 specifically requested of the petitioner by the property appraiser. For purposes of this rule and
13 Rule 12D-9.020, F.A.C., reasonableness shall be assumed if the property appraiser does not
14 object. Otherwise, reasonableness shall be determined by whether the material can be reviewed,
15 investigated, and responded to or rebutted in the time frame remaining before the hearing. If a
16 petitioner has acted in good faith and not denied evidence to the property appraiser prior to the
17 hearing, as provided by Section 194.034(1)(d), F.S., but wishes to submit evidence at the hearing
18 which is of a nature that would require investigation or verification by the property appraiser, then
19 the special magistrate may allow the hearing to be recessed and, if necessary, rescheduled so that
20 the property appraiser may review such evidence.

21 2. A property appraiser shall not present undisclosed evidence that was not supplied to the
22 petitioner as required under the evidence exchange rule, Rule 12D-9.020, F.A.C. The remedy for

1 such noncompliance shall be a rescheduling of the hearing to allow the petitioner an opportunity
2 to review the information of the property appraiser.

3 (5) When testimony is presented at a hearing, each party shall have the right to cross-examine
4 any witness.

5 (6)(a) By agreement of the parties entered in the record, the board or special magistrate may
6 leave the record open and postpone completion of the hearing to a date certain to allow a party to
7 collect and provide additional relevant and credible evidence. Such postponements shall be
8 limited to instances where, after completing original presentations of evidence, the parties agree
9 to the collection and submittal of additional, specific factual evidence for consideration by the
10 board or special magistrate. In lieu of completing the hearing, upon agreement of the parties the
11 board or special magistrate is authorized to consider such evidence without further hearing.

12 (b) If additional hearing time is necessary, the hearing must be completed at the date, place,
13 and time agreed upon for presenting the additional evidence to the board or special magistrate for
14 consideration.

15 (c) The following limitations shall apply if the property appraiser seeks to present additional
16 evidence that was unexpectedly discovered and that would increase the assessment.

17 1. The board or special magistrate shall ensure that such additional evidence is limited to a
18 correction of a factual error discovered in the physical attributes of the petitioned property; a
19 change in the property appraiser's judgment is not such a correction and shall not justify an
20 increase in the assessment.

21 2. A notice of revised proposed assessment shall be made and provided to the petitioner in
22 accordance with the notice provisions set out in Florida Statutes for notices of proposed property
23 taxes.

1 3. A new hearing shall be scheduled and notice of the hearing shall be sent to the petitioner
2 along with a copy of the revised property record card if requested.

3 4. The evidence exchange procedures in Rule 12D-9.020, F.A.C., shall be available.

4 5. The back assessment procedure in Section 193.092, F.S., shall be used for any assessment
5 already certified.

6 (7)(a) The board or special magistrate shall receive, identify for the record, and retain all
7 exhibits presented during the hearing and send them to the board clerk along with the
8 recommended decision or final decision. Upon agreement of the parties, the board clerk is
9 authorized to make an electronic representation of evidence that is difficult to store or maintain.

10 (b) The board or special magistrate shall have the authority, at a hearing, to ask questions at
11 any time of either party, the witnesses, or board staff. When asking questions, the board or
12 special magistrate shall not show bias for or against any party or witness. The board or special
13 magistrate shall limit the content of any question asked of a party or witness to matters
14 reasonably related, directly or indirectly, to matters already in the record.

15 (c) Representatives of interested municipalities may be heard as provided in Section 193.116,
16 F.S.

17 (8) Unless a board or special magistrate determines that additional time is necessary, the
18 board or special magistrate shall conclude all hearings at the end of the time scheduled for the
19 hearing. If a hearing is not concluded by the end of the time scheduled, the board or special
20 magistrate shall determine the amount of additional time needed to conclude the hearing.

21 (a) If the board or special magistrate determines that the amount of additional time needed to
22 conclude the hearing would not unreasonably disrupt other hearings, the board or special
23 magistrate is authorized to proceed with conclusion of the hearing.

1 (b) If the board or special magistrate determines that the amount of additional time needed to
2 conclude the hearing would unreasonably disrupt other hearings, the board or special magistrate
3 shall so state on the record and shall notify the board clerk to reschedule the conclusion of the
4 hearing to a time as scheduled and noticed by the board clerk.

5 (9) The board or special magistrate shall not be required to make, at any time during a
6 hearing, any oral or written finding, conclusion, decision, or reason for decision. The board or
7 special magistrate has the discretion to determine whether to make such determinations during a
8 hearing or to consider the petition and evidence further after the hearing and then make such
9 determinations.

10 (10) For purposes of reporting board action on decisions and on the notice of tax impact, the
11 value as reflected on the initial roll shall mean the property appraiser's determination as
12 presented at the commencement of the hearing or as reduced by the property appraiser during the
13 hearing, but before a decision by the board or a recommended decision by the special magistrate.

14 See Rule 12D-9.038, F.A.C.

15 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
16 193.092, 194.011, 194.032, 194.034, 195.022, 195.084, 213.05 FS. History-New _____ .

17
18 12D-9.026 Procedures for Conducting a Hearing by Electronic Media.

19 (1) Hearings conducted by electronic media shall occur only under the conditions set forth in
20 this rule section.

21 (a) The board must approve and have available the necessary equipment and procedures.

22 (b) The special magistrate, if one is used, must agree in each case to the electronic hearing.

23 (c) The board must reasonably accommodate parties that have hardship or lack necessary

1 equipment or ability to access equipment. The board must provide a physical location at which a
2 party may appear, if requested.

3 (2) For any hearing conducted by electronic media, the board shall ensure that all equipment
4 is adequate and functional for allowing clear communication among the participants and for
5 creating the hearing records required by law. The board procedures shall specify the time period
6 within which a party must request to appear at a hearing by electronic media.

7 (3) Consistent with board equipment and procedures:

8 (a) Any party may request to appear at a hearing before a board or special magistrate, using
9 telephonic or other electronic media. If the board or special magistrate allows a party to appear
10 by telephone, all members of the board in the hearing or the special magistrate must be
11 physically present in the hearing room. Unless required by other provisions of state or federal
12 law, the board clerk need not comply with such a request if such telephonic or electronic media
13 are not reasonably available.

14 (b) The parties must also all agree on the methods for swearing witnesses, presenting
15 evidence, and placing testimony on the record. Such methods must comply with the provisions of
16 this rule chapter. The agreement of the parties must include which parties must appear by
17 telephonic or other electronic media, and which parties will be present in the hearing room.

18 (4) Such hearings must be open to the public either by providing the ability for interested
19 members of the public to join the hearing electronically or to monitor the hearing at the location
20 of the board or special magistrate.

21 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
22 194.011, 194.032, 194.034, 195.035, 195.022, 195.084, 213.05 FS. History-New _____.

23

1 12D-9.027 Process of Administrative Review.

2 (1) This section sets forth the sequence of general procedural steps for administrative
3 reviews. This order of steps applies to: the consideration of evidence, the development of
4 conclusions, and the production of written decisions. The board or special magistrate shall follow
5 this general sequence in order to fulfill the procedural requirements of Section 194.301, F.S. The
6 following subsections set forth the steps for administrative reviews of:

7 (a) Just valuations in subsection (2);

8 (b) Classified use valuations, and assessed valuations of limited increase property, in
9 subsection (3); and

10 (c) Exemptions, classifications, and portability assessment transfers in subsection (4).

11 (2) In administrative reviews of the just valuation of property, the board or special magistrate
12 shall follow this sequence of general procedural steps:

13 (a) Determine whether the property appraiser established a presumption of correctness for the
14 assessment, and determine whether the property appraiser's just valuation methodology is
15 appropriate. The presumption of correctness is not established unless the admitted evidence
16 proves by a preponderance of the evidence that the property appraiser's just valuation
17 methodology complies with Section 193.011, F.S., and professionally accepted appraisal
18 practices, including mass appraisal standards, if appropriate.

19 (b)1. In administrative reviews of just valuations, if the property appraiser establishes a
20 presumption of correctness, determine whether the admitted evidence proves by a preponderance
21 of the evidence that:

22 a. The property appraiser's just valuation does not represent just value; or

1 b. The property appraiser's just valuation is arbitrarily based on appraisal practices that are
2 different from the appraisal practices generally applied by the property appraiser to comparable
3 property within the same county.

4 2. If one or both of the conditions in subparagraph (b)1. above are determined to exist, the
5 property appraiser's presumption of correctness is overcome.

6 3. If the property appraiser does not establish a presumption of correctness, or if the
7 presumption of correctness is overcome, the board or special magistrate shall determine whether
8 the hearing record contains competent, substantial evidence of just value which cumulatively
9 meets the criteria of Section 193.011, F.S., and professionally accepted appraisal practices.

10 a. If the hearing record contains competent, substantial evidence for establishing a revised
11 just value, the board or an appraiser special magistrate shall establish a revised just value based
12 only upon such evidence. In establishing a revised just value, the board or special magistrate is
13 not restricted to any specific value offered by one of the parties.

14 b. If the hearing record lacks competent, substantial evidence for establishing a revised just
15 value, the board or special magistrate shall remand the assessment to the property appraiser with
16 appropriate directions for establishing just value.

17 4. If the property appraiser establishes a presumption of correctness and that presumption of
18 correctness is not overcome as described in subparagraph (b)1. above, the assessment stands.

19 (3) In administrative reviews of the classified use valuation of property or administrative
20 reviews of the assessed valuation of limited increase property, the board or special magistrate
21 shall follow this sequence of general procedural steps:

22 (a) Identify the statutory criteria that apply to the classified use valuation of the property or to
23 the assessed valuation of limited increase property, as applicable.

1 (b) Determine whether the property appraiser established a presumption of correctness for the
2 assessment, and determine whether the property appraiser's classified use or assessed valuation
3 methodology is appropriate. The presumption of correctness is not established unless the
4 admitted evidence proves by a preponderance of the evidence that the property appraiser's
5 valuation methodology complies with the statutory criteria that apply to the classified use
6 valuation or assessed valuation, as applicable, of the petitioned property.

7 (c)1. In administrative reviews of classified use valuations, if the property appraiser
8 establishes a presumption of correctness, determine whether the admitted evidence proves by a
9 preponderance of the evidence that:

10 a. The property appraiser's classified use valuation does not represent classified use value; or

11 b. The property appraiser's classified use valuation is arbitrarily based on classified use
12 valuation practices that are different from the classified use valuation practices generally applied
13 by the property appraiser to comparable property of the same property classification within the
14 same county.

15 2. If one or both of the conditions in subparagraph (c)1. above are determined to exist, the
16 property appraiser's presumption of correctness is overcome.

17 3. If the property appraiser does not establish a presumption of correctness, or if the
18 presumption of correctness is overcome, the board or special magistrate shall determine whether
19 the hearing record contains competent, substantial evidence of classified use value which
20 cumulatively meets the statutory criteria that apply to the classified use valuation of the
21 petitioned property.

22 a. If the hearing record contains competent, substantial evidence for establishing a revised
23 classified use value, the board or an appraiser special magistrate shall establish a revised

1 classified use value based only upon such evidence. In establishing a revised classified use value,
2 the board or special magistrate is not restricted to any specific value offered by one of the parties.

3 b. If the hearing record lacks competent, substantial evidence for establishing a revised
4 classified use value, the board or special magistrate shall remand the assessment to the property
5 appraiser with appropriate directions for establishing classified use value.

6 4. If the property appraiser establishes a presumption of correctness and that presumption of
7 correctness is not overcome as described in subparagraph (c)1. above, the assessment stands.

8 (d)1. In administrative reviews of assessed valuations of limited increase property, if the
9 property appraiser establishes a presumption of correctness, determine whether the admitted
10 evidence proves by a preponderance of the evidence that:

11 a. The property appraiser's assessed valuation does not represent assessed value; or

12 b. The property appraiser's assessed valuation is arbitrarily based on assessed valuation
13 practices that are different from the assessed valuation practices generally applied by the
14 property appraiser to comparable property within the same county.

15 2. If one or both of the conditions in subparagraph (d)1. above are determined to exist, the
16 property appraiser's presumption of correctness is overcome.

17 3. If the property appraiser does not establish a presumption of correctness, or if the
18 presumption of correctness is overcome, the board or special magistrate shall determine whether
19 the hearing record contains competent, substantial evidence of assessed value which
20 cumulatively meets the statutory criteria that apply to the assessed valuation of the petitioned
21 property.

22 a. If the hearing record contains competent, substantial evidence for establishing a revised
23 assessed value, the board or an appraiser special magistrate shall establish a revised assessed

1 value based only upon such evidence. In establishing a revised assessed value, the board or
2 special magistrate is not restricted to any specific value offered by one of the parties.

3 b. If the hearing record lacks competent, substantial evidence for establishing a revised
4 assessed value, the board or special magistrate shall remand the assessment to the property
5 appraiser with appropriate directions for establishing assessed value.

6 4. If the property appraiser establishes a presumption of correctness and that presumption of
7 correctness is not overcome as described in subparagraph (d)1. above, the assessment stands.

8 (4) In administrative reviews of exemptions, classifications, and portability assessment
9 transfers, the board or special magistrate shall follow this sequence of general procedural steps:

10 (a) In the case of an exemption, the board or special magistrate shall consider whether the
11 denial was valid or invalid and shall:

12 1. Review the exemption denial, and compare it to the applicable statutory criteria in Section
13 196.193(5), F.S.;

14 2. Determine whether the denial was valid under Section 196.193, F.S.; and

15 3. If the denial is found to be invalid, not give weight to the exemption denial or to any
16 evidence supporting the basis for such denial, but shall instead proceed to dispose of the matter
17 without further consideration in compliance with Section 194.301, F.S.

18 4. If the denial is found to be valid, proceed with steps in paragraphs (b) through (g) below.

19 (b) Consider the admitted evidence presented by the parties.

20 (c) Identify the particular exemption, property classification, or portability assessment
21 transfer issue that is the subject of the petition.

1 (d) Identify the statutory criteria that apply to the particular exemption, property
2 classification, or portability assessment difference transfer that was identified as the issue under
3 administrative review.

4 (e) Identify and consider the essential characteristics of the petitioned property or the
5 property owner, as applicable, based on the statutory criteria that apply to the issue under
6 administrative review.

7 (f) Identify and consider the basis used by the property appraiser in issuing the denial for the
8 petitioned property.

9 (g) Determine whether the admitted evidence proves by a preponderance of the evidence that
10 the property appraiser’s denial is incorrect and the exemption, classification, or portability
11 assessment transfer should be granted because all of the applicable statutory criteria are satisfied.
12 Where necessary and where the context will permit in these rules, the term “statutory criteria”
13 includes any constitutional criteria that do not require implementation by legislation.

14 (5) “Standard of proof” means the level of proof needed by the board or special magistrate to
15 reach a particular conclusion. The standard of proof that applies in administrative reviews is
16 called “preponderance of the evidence,” which means “greater weight of the evidence.”

17 (6) When applied to evidence, the term “sufficient” is a test of adequacy. Sufficient evidence
18 is admitted evidence that has enough overall weight, in terms of relevance and credibility, to
19 legally justify a particular conclusion. A particular conclusion is justified when the overall
20 weight of the admitted evidence meets the standard of proof that applies to the issue under
21 consideration. The board or special magistrate must determine whether the admitted evidence is
22 sufficiently relevant and credible to reach the standard of proof that applies to the issue under

1 consideration. In determining whether the admitted evidence is sufficient for a particular issue
2 under consideration, the board or special magistrate shall:

3 (a) Consider the relevance and credibility of the admitted evidence as a whole, regardless of
4 which party presented the evidence;

5 (b) Determine the relevance and credibility, or overall weight, of the evidence;

6 (c) Compare the overall weight of the evidence to the standard of proof;

7 (d) Determine whether the overall weight of the evidence is sufficient to reach the standard
8 of proof; and

9 (e) Produce a conclusion of law based on the determination of whether the overall weight of
10 the evidence has reached the standard of proof.

11 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
12 193.122, 194.011, 194.015, 194.032, 194.034, 194.036, 194.037, 194.301, 195.002, 195.084,
13 195.096, 196.011, 196.151, 196.193, 197.122, 213.05 FS. History—New _____.

14
15 12D-9.028 Petitions on Transfer of “Portability” Assessment Difference.

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

20 (2) A petitioner may file a petition with the value adjustment board, in the county where the
21 new homestead is located, to petition either a denial of a transfer or the amount of the transfer, on
22 Form DR-486PORT. Form DR-486PORT is adopted and incorporated by reference in Rule 12D-
23 16.002, F.A.C. Such petition must be filed at any time during the taxable year on or before the

1 25th day following the mailing of the notice of proposed property taxes as provided in Section
2 194.011, F.S. If only a part of a transfer of assessment increase differential is granted, the notice
3 of proposed property taxes shall function as notice of the taxpayer's right to appeal to the board.

4 (3) The petitioner may petition to the board the decision of the property appraiser refusing to
5 allow the transfer of an assessment difference, and the board shall review the application and
6 evidence presented to the property appraiser upon which the petitioner based the claim and shall
7 hear the petitioner on behalf of his or her right to such assessment. Such petition shall be heard
8 by an attorney special magistrate if the board uses special magistrates.

9 (4) This subsection will apply to value adjustment board proceedings in a county in which
10 the previous homestead is located. Any petitioner desiring to appeal the action of a property
11 appraiser in a county in which the previous homestead is located must so designate on Form DR-
12 486PORT.

13 (5) If the petitioner does not agree with the amount of the assessment limitation difference
14 for which the petitioner qualifies as stated by the property appraiser in the county where the
15 previous homestead property was located, or if the property appraiser in that county has not
16 stated that the petitioner qualifies to transfer any assessment limitation difference, upon the
17 petitioner filing a petition to the value adjustment board in the county where the new homestead
18 property is located, the board clerk in that county shall, upon receiving the petition, send a notice
19 using Form DR-486XCO, to the board clerk in the county where the previous homestead was
20 located, which shall reconvene if it has already adjourned. Form DR-486XCO is adopted, and
21 incorporated by reference, in Rule 12D-16.002, F.A.C.

22 (6)(a) If a cross county petition is filed as described in subsection (5), such notice operates as
23 a timely petition and creates an appeal to the value adjustment board in the county where the

1 previous homestead was located on all issues surrounding the previous assessment differential
2 for the taxpayer involved. However, the petitioner may not petition to have the just, assessed, or
3 taxable value of the previous homestead changed.

4 (b) The board clerk in the county where the previous homestead was located shall set the
5 petition for hearing and notify the petitioner, the property appraiser in the county where the
6 previous homestead was located, the property appraiser in the county where the new homestead
7 is located, and the value adjustment board in that county, and shall hear the petition.

8 (c) The board clerk in the county in which the previous homestead was located must note and
9 file the petition from the county in which the new homestead is located. No filing fee is required.
10 The board clerk shall notify each petitioner of the scheduled time of appearance. The notice shall
11 be in writing and delivered by regular or certified U.S. mail, or personal delivery, or delivered in
12 the manner requested by the petitioner on Form DR-486PORT, so that the notice shall be
13 received by the petitioner no less than twenty-five (25) calendar days prior to the day of such
14 scheduled appearance. The board clerk will have prima facie complied with the requirements of
15 this section if the notice was deposited in the U.S. mail thirty (30) days prior to the day of such
16 scheduled appearance.

17 (d) Such petition shall be heard by an attorney special magistrate if the value adjustment
18 board in the county where the previous homestead was located uses special magistrates. The
19 petitioner may attend such hearing and present evidence, but need not do so. If the petitioner
20 does not appear at the hearing, the hearing shall go forward. The board or special magistrate shall
21 obtain the petition file from the board clerk. The board or special magistrate shall consider deeds,
22 property appraiser records that do not violate confidentiality requirements, and other documents
23 that are admissible evidence. The petitioner may submit a written statement for review and

1 consideration by the board or special magistrate explaining why the “portability” assessment
2 difference should be granted based on applications and other documents and records submitted
3 by the petitioner.

4 (e) The value adjustment board in the county where the previous homestead was located shall
5 issue a decision and the board clerk shall send a copy of the decision to the board clerk in the
6 county where the new homestead is located.

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

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

16 (8) Copies of the forms incorporated in Rule 12D-16.002, F.A.C., may be obtained at the
17 Department’s Internet site: <http://dor.myflorida.com/dor/property/forms/>.
18 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1) FS. Law Implemented 193.155,
19 194.011, 195.084, 213.05 FS. History--New _____.

20
21 12D-9.029 Procedures for Remanding Value Assessments to the Property Appraiser.

22 (1) The board or appraiser special magistrate shall remand a value assessment to the property
23 appraiser when the board or special magistrate has concluded that:

1 (a) The property appraiser did not establish a presumption of correctness, or has concluded
2 that the property appraiser established a presumption of correctness that is overcome, as provided
3 in Rule 12D-9.027, F.A.C.; and

4 (b) The record does not contain the competent substantial evidence necessary for the board or
5 special magistrate to establish a revised just value, classified use value, or assessed value, as
6 applicable.

7 (2) An attorney special magistrate shall remand an assessment to the property appraiser for a
8 classified use valuation when the special magistrate has concluded that a property classification
9 will be granted.

10 (3) The board shall remand an assessment to the property appraiser for a classified use
11 valuation when the board:

12 (a) Has concluded that a property classification will be granted; and

13 (b) Has concluded that the record does not contain the competent substantial evidence
14 necessary for the board to establish classified use value.

15 (4) The board or special magistrate shall, on the appropriate decision form from the Form
16 DR-485 series, produce written findings of fact and conclusions of law necessary to determine
17 that a remand is required, but shall not render a recommended or final decision unless a
18 continuation hearing is held as provided in subsection (9). The Form DR-485 series is adopted,
19 and incorporated by reference, in Rule 12D-16.002, F.A.C.

20 (5) When an attorney special magistrate remands an assessment to the property appraiser for
21 classified use valuation, an appraiser special magistrate retains authority to produce a
22 recommended decision in accordance with law. When an appraiser special magistrate remands
23 an assessment to the property appraiser, the special magistrate retains authority to produce a

1 recommended decision in accordance with law. When the value adjustment board remands an
2 assessment to the property appraiser, the board retains authority to make a final decision on the
3 petition in accordance with law.

4 (6) For remanding an assessment to the property appraiser, the board or special magistrate
5 shall produce a written remand decision which shall include appropriate directions to the
6 property appraiser.

7 (7) The board clerk shall concurrently provide, to the petitioner and the property appraiser, a
8 copy of the written remand decision from the board or special magistrate. The petitioner's copy
9 of the written remand decision shall be sent by regular or certified U.S. mail, or by personal
10 delivery, or in the manner requested by the taxpayer on Form DR-486.

11 (8)(a) After receiving a board or special magistrate's remand decision from the board clerk,
12 the property appraiser shall follow the appropriate directions from the board or special magistrate
13 and shall produce a written remand review.

14 (b) The property appraiser or his or her staff shall not have, directly or indirectly, any ex
15 parte communication with the board or special magistrate regarding the remanded assessment.

16 (9)(a) Immediately after receipt of the written remand review from the property appraiser, the
17 board clerk shall send a copy of the written remand review to the petitioner by regular or
18 certified U.S. mail or by personal delivery, or in the manner requested by the taxpayer on Form
19 DR-486, and shall send a copy to the board or special magistrate. The board clerk shall retain, as
20 part of the petition file, the property appraiser's written remand review. Together with the
21 petitioner's copy of the written remand review, the board clerk shall send to the petitioner a copy
22 of this rule subsection.

1 (b) The board clerk shall schedule a continuation hearing if the petitioner notifies the board
2 clerk, within 25 days of the date the board clerk sends the written remand review, that the results
3 of the property appraiser’s written remand review are unacceptable to the petitioner and that the
4 petitioner requests a further hearing on the petition. The board clerk shall send the notice of
5 hearing so that it will be received by the petitioner no less than twenty-five (25) calendar days
6 prior to the day of such scheduled appearance, as described in subsection 12D-9.019(3), F.A.C.
7 When a petitioner does not notify the board clerk that the results of the property appraiser’s
8 written remand review are unacceptable to the petitioner and does not request a continuation
9 hearing, or if the petitioner waives a continuation hearing, the board or special magistrate shall
10 issue a decision or recommended decision. Such decision shall contain:

11 1. A finding of fact that the petitioner did not request a continuation hearing or waived such
12 hearing; and

13 2. A conclusion of law that the decision is being issued in order that any right the petitioner
14 may have to bring an action in circuit court is not impaired.

15 The petition shall be treated and listed as board action for purposes of the notice required by
16 Rule 12D-9.038, F.A.C.

17 (c) At a continuation hearing, the board or special magistrate shall receive and consider the
18 property appraiser’s written remand review and additional relevant and credible evidence, if any,
19 from the parties. Also, the board or special magistrate may consider evidence admitted at the
20 original hearing.

21 (10) In those counties that use special magistrates, if an attorney special magistrate has
22 granted a property classification before the remand decision and the property appraiser has
23 produced a remand classified use value, a real property valuation special magistrate shall conduct

1 the continuation hearing.

2 (11) In no case shall a board or special magistrate remand to the property appraiser an
3 exemption, “portability” assessment difference transfer, or property classification determination.

4 (12) Copies of all evidence shall remain with the board clerk and be available during the
5 remand process.

6 (13) In lieu of remand, the board or special magistrate may postpone conclusion of the
7 hearing upon agreement of the parties if the requirements of subsection 12D-9.025(6), F.A.C.,
8 are met.

9 (14) Copies of the forms incorporated in Rule 12D-16.002, F.A.C., may be obtained at the
10 Department’s Internet site: <http://dor.myflorida.com/dor/property/forms/>.
11 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
12 194.011, 194.032, 194.034, 194.035, 194.301, 213.05 FS. History-New

13
14 12D-9.030 Recommended Decisions.

15 (1) For each petition not withdrawn or settled, special magistrates shall produce a written
16 recommended decision that contains findings of fact, conclusions of law, and reasons for
17 upholding or overturning the property appraiser’s determination. Each recommended decision
18 shall contain sufficient factual and legal information and reasoning to enable the parties to
19 understand the basis for the decision, and shall otherwise meet the requirements of law. The
20 special magistrate and board clerk shall observe the petitioner’s right to be sent a timely written
21 recommended decision containing proposed findings of fact and proposed conclusions of law
22 and reasons for upholding or overturning the determination of the property appraiser. After
23 producing a recommended decision, the special magistrate shall provide it to the board clerk.

1 (2) The board clerk shall provide copies of the special magistrate’s recommended decision to
2 the petitioner and the property appraiser as soon as practicable after receiving the recommended
3 decision, and if the board clerk:

4 (a) Knows the date, time, and place at which the recommended decision will be considered
5 by the board, the board clerk shall include such information when he or she sends the
6 recommended decision to the petitioner and the property appraiser; or

7 (b) Does not yet know the date, time, and place at which the recommended decision will be
8 considered by the board, the board clerk shall include information on how to find the date, time,
9 and place of the meeting at which the recommended decision will be considered by the board.

10 (3) Any board or special magistrate workpapers, worksheets, notes, or other materials that are
11 made available to a party shall immediately be sent to the other party. Any workpapers,
12 worksheets, notes, or other materials created by the board or special magistrates during the
13 course of hearings or during consideration of petitions and evidence, that contain any material
14 prepared in connection with official business, shall be transferred to the board clerk and retained
15 as public records. Value adjustment boards or special magistrates using standardized
16 workpapers, worksheets, or notes, whether in electronic format or otherwise, must receive prior
17 department approval to ensure that such standardized documents comply with the law.

18 (4) For the purpose of producing the recommended decisions of special magistrates, the
19 department prescribes the Form DR-485 series, and any electronic equivalent forms approved by
20 the department under Section 195.022, F.S. The Form DR-485 series is adopted, and
21 incorporated by reference, in Rule 12D-16.002, F.A.C. All recommended decisions of special
22 magistrates, and all forms used for the recommended decisions, must contain the following
23 required elements:

- 1 (a) Findings of fact;
2 (b) Conclusions of law; and
3 (c) Reasons for upholding or overturning the determination of the property appraiser.

4 (5) As used in this section, the terms “findings of fact” and “conclusions of law” include
5 proposed findings of fact and proposed conclusions of law produced by special magistrates in
6 their recommended decisions.

7 (6) Legal advice from the board legal counsel relating to the facts of a petition or to the
8 specific outcome of a decision, if in writing, shall be included in the record and referenced within
9 the findings of fact and conclusions of law. If not in writing, such advice shall be documented
10 within the findings of fact and conclusions of law.

11 (7) Copies of the forms incorporated in Rule 12D-16.002, F.A.C., may be obtained at the
12 Department’s Internet site: <http://dor.myflorida.com/dor/property/forms/>.
13 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1) FS. Law Implemented 193.155,
14 194.011, 195.022, 213.05 FS. History--New _____.

15
16 12D-9.031 Consideration and Adoption of Recommended Decisions of Special Magistrates
17 by Value Adjustment Boards in Administrative Reviews.

18 (1) All recommended decisions shall comply with Sections 194.301, 194.034(2), and
19 194.035(1), F.S. A special magistrate shall not submit to the board, and the board shall not adopt,
20 any recommended decision that is not in compliance with Sections 194.301, 194.034(2), and
21 194.035(1), F.S.

22 (2) As provided in Sections 194.034(2) and 194.035(1), F.S., the board shall consider the
23 recommended decisions of special magistrates and may act upon the recommended decisions

1 without further hearing. If the board holds further hearing for such consideration, the board clerk
2 shall send notice of the hearing to the parties. Any notice of hearing shall be in the same form as
3 specified in paragraph 12D-9.019(3)(a), F.A.C., but need not include items specified in
4 subparagraphs 6. through 9. of that subsection. The board shall consider whether the
5 recommended decisions meet the requirements of subsection (1), and may rely on board legal
6 counsel for such determination. Adoption of recommended decisions need not include a review
7 of the underlying record.

8 (3) If the board determines that a recommended decision meets the requirements of
9 subsection (1), the board shall adopt the recommended decision. When a recommended decision
10 is adopted and rendered by the board, it becomes final.

11 (4) If the board determines that a recommended decision does not comply with the
12 requirements of subsection (1), the board shall proceed as follows:

13 (a) The board shall request the advice of board legal counsel to evaluate further action and
14 shall take the steps necessary for producing a final decision in compliance with subsection (1).

15 (b) The board may direct a special magistrate to produce a recommended decision that
16 complies with subsection (1) based on, if necessary, a review of the entire record.

17 (c) The board shall retain any recommended decisions and all other records of actions under
18 this rule section.

19 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
20 193.122, 194.011, 194.015, 194.032, 194.034, 194.035, 194.036, 194.037, 194.301, 195.002,
21 195.096, 196.011, 197.122, 213.05 FS. History--New _____.

22

23 12D-9.032 Final Decisions.

1 (1)(a) For each petition not withdrawn or settled, the board shall produce a written final
2 decision that contains findings of fact, conclusions of law, and reasons for upholding or
3 overturning the property appraiser’s determination. Each final decision shall contain sufficient
4 factual and legal information and reasoning to enable the parties to understand the basis for the
5 decision, and shall otherwise meet the requirements of law. The board may fulfill the
6 requirement to produce a written final decision by adopting a recommended decision of the
7 special magistrate containing the required elements and providing notice that it has done so. The
8 board may adopt the special magistrate’s recommended decision as the decision of the board
9 incorporating the recommended decision, using a postcard or similar notice. The board shall
10 ensure regular and timely approval of recommended decisions.

11 (b) Legal advice from the board legal counsel relating to the facts of a petition or to the
12 specific outcome of a decision, if in writing, shall be included in the record and referenced within
13 the findings of fact and conclusions of law. If not in writing, such advice shall be documented
14 within the findings of fact and conclusions of law.

15 (2) A final decision of the board shall state the just, assessed, taxable, and exempt value, for
16 the county both before and after board action. Board action shall not include changes made as a
17 result of action by the property appraiser. If the property appraiser has reduced his or her value or
18 granted an exemption, property classification, or “portability” assessment difference transfer,
19 whether before or during the hearing but before board action, the values in the “before” column
20 shall reflect the adjusted figure before board action.

21 (3) The board’s final decision shall advise the taxpayer and property appraiser that further
22 proceedings in circuit court shall be as provided in Section 194.036, F.S.

23 (4) Upon issuance of a final decision by the board, the board shall provide it to the board

1 clerk and the board clerk shall promptly provide notice of the final decision to the parties. Notice
2 of the final decision may be made by providing a copy of the decision. The board shall issue all
3 final decisions within 20 calendar days of the last day the board is in session pursuant to Section
4 194.032, F.S.

5 (5) For the purpose of producing the final decisions of the board, the department prescribes
6 the Form DR-485 series, and any electronic equivalent forms approved by the department under
7 Section 195.022, F.S. The Form DR-485 series is adopted, and incorporated by reference, in
8 Rule 12D-16.002, F.A.C. The Form DR-485 series, or approved electronic equivalent forms, are
9 the only forms that shall be used for producing a final decision of the board. Before using any
10 form to notify petitioners of the final decision, the board shall submit the proposed form to the
11 department for approval. The board shall not use a form to notify the petitioner unless the
12 department has approved the form. All decisions of the board, and all forms used to produce final
13 decisions on petitions heard by the board, must contain the following required elements:

14 (a) Findings of fact;

15 (b) Conclusions of law; and

16 (c) Reasons for upholding or overturning the determination of the property appraiser.

17 (6)(a) If, prior to a final decision, any communication is received from a party concerning a
18 board process on a petition or concerning a recommended decision, a copy of the communication
19 shall promptly be furnished to all parties, the board clerk, and the board legal counsel. No such
20 communication shall be furnished to the board or a special magistrate unless a copy is
21 immediately furnished to all parties. A party may waive notification or furnishing of copies
22 under this subsection.

1 (b) The board legal counsel shall respond to such communication and may advise the board
2 concerning any action the board should take concerning the communication.

3 (c) No reconsideration of a recommended decision shall take place until all parties have been
4 furnished all communications, and have been afforded adequate opportunity to respond.

5 (d) The board clerk shall provide to the parties:

6 1. Notification before the presentation of the matter to the board; and

7 2. Notification of any action taken by the board.

8 (7) Copies of the forms incorporated in Rule 12D-16.002, F.A.C., may be obtained at the
9 Department's Internet site: <http://dor.myflorida.com/dor/property/forms/>.

10 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
11 194.011, 194.015, 194.032, 194.034, 194.035, 194.036, 195.022, 213.05 FS. History-New _____.

12
13 12D-9.033 Further Judicial Proceedings. After the board issues its final decision, further
14 proceedings and the timing thereof are as provided in Sections 194.036 and 194.171, F.S.
15 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
16 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 194.036, 195.022, 213.05 FS. History-
17 New _____.

18
19 12D-9.034 Record of the Proceeding.

20 (1) The board clerk shall maintain a record of the proceeding. The record shall consist of:

21 (a) The petition;

22 (b) All filed documents, including all tangible exhibits and documentary evidence presented,
23 whether or not admitted into evidence; and

1 (c) Meeting minutes and a verbatim record of the hearing.

2 (2) The verbatim record of the hearing may be kept by any electronic means which is easily
3 retrieved and copied. In counties that use special magistrates, the special magistrate shall
4 accurately and completely preserve the verbatim record during the hearing, and may be assisted
5 by the board clerk. In counties that do not use special magistrates, the board clerk shall
6 accurately and completely preserve the verbatim record during the hearing. At the conclusion of
7 each hearing, the board clerk shall retain the verbatim record as part of the petition file.

8 (3) The record shall be maintained for four years after the final decision has been rendered by
9 the board if no appeal is filed in circuit court, or for five years if an appeal is filed.

10 (4) If requested by the taxpayer, the taxpayer's agent, or the property appraiser, the board
11 clerk shall retain these records until the final disposition of any subsequent judicial proceeding
12 related to the same property.

13 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
14 194.011, 194.032, 194.034, 194.035, 213.05 FS. History-New _____.

15
16 12D-9.035 Duty of Clerk to Prepare and Transmit Record.

17 (1) When a change in the tax roll made by the board becomes subject to review by the Circuit
18 Court pursuant to Section 194.036(1)(c), F.S., it shall be the duty of the board clerk, when
19 requested, to prepare the record for review. The record shall consist of a copy of each paper,
20 including the petition and each exhibit in the proceeding together with a copy of the board's
21 decision and written findings of fact and conclusions of law. The board clerk shall transmit to the
22 Court this record, and the board clerk's certification of the record which shall be in the following
23 form:

1 Certification of Record

2 I hereby certify that the attached record, consisting of sequentially numbered pages one
3 through _____, consists of true copies of all papers, exhibits, and the Board's findings of fact and
4 conclusions of law, in the proceeding before the _____ County Value Adjustment
5 Board upon petition numbered _____ filed by _____.

6 _____
7 Clerk of Value Adjustment Board

8 By: _____
9 Deputy Clerk

10 Should the verbatim transcript be prepared other than by a court reporter, the board clerk
11 shall also make the following certification:

12 CERTIFICATION OF VERBATIM TRANSCRIPT

13 I hereby certify that the attached verbatim transcript consisting of sequentially numbered
14 pages _____ through _____ is an accurate and true transcript of the hearing held on _____ in
15 the proceeding before the County Value Adjustment Board petition numbered _____ filed
16 by:

17 _____
18 Clerk of Value Adjustment Board

19 By: _____
20 Deputy Clerk

21 (2) The board clerk shall provide the petitioner and property appraiser, upon their request, a
22 copy of the record at no more than actual cost.

1 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
2 194.032, 194.036, 213.05 FS. History--New .

3
4 12D-9.036 Procedures for Petitions on Denials of Tax Deferrals.

5 (1) The references in these rules to the tax collector are for the handling of petitions of
6 denials of tax deferrals under Sections 197.253, 197.3041, and 197.3073, F.S., and petitions of
7 penalties imposed under Sections 197.301, 197.3047, and 197.3079, F.S.

8 (2) To the extent possible where the context will permit, such petitions shall be handled
9 procedurally under this rule chapter in the same manner as denials of exemptions.

10 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
11 194.032, 194.036, 197.253, 197.301, 197.3041, 197.3047, 197.3073, 197.3079, 213.05 FS.
12 History--New .

13
14 Part III

15 Uniform Certification of Assessment Rolls

16
17 12D-9.037 Certification of Assessment Rolls.

18 (1)(a) When the tax rolls have been extended pursuant to Section 197.323, F.S., the initial
19 certification of the value adjustment board shall be made on Form DR-488P. Form DR-488P is
20 adopted, and incorporated by reference, in Rule 12D-16.002, F.A.C.

21 (b) After all hearings have been held, the board shall certify an assessment roll or part of an
22 assessment roll that has been finally approved pursuant to Section 193.1142, F.S. The
23 certification shall be on the form prescribed by the department referenced in subsection (2) of

1 this rule. A sufficient number of copies of the board's certification shall be delivered to the
2 property appraiser who shall attach the same to each copy of each assessment roll prepared by
3 the property appraiser.

4 (2) The form shall include a certification signed by the board chair, on behalf of the entire
5 board, on Form DR-488, adopted, and incorporated by reference, in Rule 12D-16.002, F.A.C.,
6 designated for this purpose, that all requirements in Chapter 194, F.S., and department rules,
7 were met as follows:

8 (a) The prehearing checklist pursuant to Rule 12D-9.014, F.A.C., was followed and all
9 necessary actions reported by the board clerk were taken to comply with Rule 12D-9.014,
10 F.A.C.;

11 (b) The qualifications of special magistrates were verified, including whether special
12 magistrates completed the department's training;

13 (c) The selection of special magistrates was based solely on proper qualifications and the
14 property appraiser and parties did not influence the selection of special magistrates;

15 (d) All petitions considered were either timely filed, or good cause was found for late filing
16 after proper review by the board or its designee;

17 (e) All board meetings were duly noticed pursuant to Section 286.011, F.S., and were held in
18 accordance with law;

19 (f) No ex parte communications were considered unless all parties were notified and allowed
20 to rebut;

21 (g) All petitions were reviewed and considered as required by law unless withdrawn or
22 settled as defined in this rule chapter;

1 (h) All decisions contain required findings of fact and conclusions of law in compliance with
2 Chapter 194, F.S., and this rule chapter;

3 (i) The board allowed opportunity for public comment at the meeting at which special
4 magistrate recommended decisions were considered and adopted;

5 (j) All board members and the board's legal counsel have read this certification and a copy of
6 the statement in subsection (1) is attached; and

7 (k) All complaints of noncompliance with Part I, Chapter 194, F.S., or this rule chapter called
8 to the board's attention have been appropriately addressed to conform with the provisions of Part
9 I, Chapter 194, F.S., and this rule chapter.

10 (3) The board shall provide a signed original of the certification required under this rule
11 section to the department before publication of the notice of the findings and results of the board
12 required by Section 194.037, F.S. See Form DR-529, Notice Tax Impact of Value Adjustment
13 Board.

14 (4) Copies of the forms incorporated in Section 12D-16.002, F.A.C., may be obtained at the
15 Department's Internet site: <http://dor.myflorida.com/dor/property/forms/>.

16 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented
17 193.122, 194.011, 195.022, 195.084, 213.05 FS. History--New _____.

18
19 12D-9.038 Public Notice of Findings and Results of Value Adjustment Board.

20 (1) After all hearings have been completed, the board clerk shall publish a public notice
21 advising all taxpayers of the findings and results of the board decisions, which shall include
22 changes made by the board to the property appraiser's initial roll. Such notice shall be published
23 to permit filing within the timeframe in subsections 12D-17.004(1) and (2), F.A.C., where

1 provided. For petitioned parcels, the property appraiser's initial roll shall be the property
2 appraiser's determinations as presented at the commencement of the hearing or as reduced by the
3 property appraiser during the hearing but before a decision by the board or a recommended
4 decision by a special magistrate. This section shall not prevent the property appraiser from
5 providing data to assist the board clerk with the notice of tax impact. The public notice shall be
6 in the form of a newspaper advertisement and shall be referred to as the "tax impact notice". The
7 format of the tax impact notice shall be substantially as prescribed in Form DR-529, Notice Tax
8 Impact of Value Adjustment Board, incorporated by reference in Rule 12D-16.002, F.A.C.

9 (2) The size of the notice shall be at least a quarter page size advertisement of a standard or
10 tabloid size newspaper. The newspaper notice shall include all of the above information and no
11 change shall be made in the format or content without department approval. The notice shall be
12 published in a part of the paper where legal notices and classified ads are not published.

13 (3) The notice of the findings and results of the value adjustment board shall be published in
14 a newspaper of paid general circulation within the county. It shall be the specific intent of the
15 publication of notice to reach the largest segment of the total county population. Any newspaper
16 of less than general circulation in the county shall not be considered for publication except to
17 supplement notices published in a paper of general circulation.

18 (4) The headline of the notice shall be set in a type no smaller than 18 point and shall read
19 "TAX IMPACT OF VALUE ADJUSTMENT BOARD."

20 (5) It shall be the duty of the board clerk to insure publication of the notice after the board
21 has heard all petitions, complaints, appeals, and disputes.

22 (6) Copies of the forms incorporated in Rule 12D-16.002, F.A.C., may be obtained at the
23 Department's Internet site: <http://dor.myflorida.com/dor/property/forms/>.

- 1 Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 50,
- 2 194.032, 194.034, 194.037, 213.05 FS. History--New .

Proposed Repeal of Provisions In
Existing Rule Chapter 12D-10, F.A.C.

(Value Adjustment Board)

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
RULE CHAPTER 12D-10, FLORIDA ADMINISTRATIVE CODE
REPEALING RULES 12D-10.001, 12D-10.002, 12D-10.004,
12D-10.0044, 12D-10.005, AND 12D-10.006
AMENDING RULE 12D-10.003

SUMMARY OF THE PROPOSED RULES

Proposed Rule Chapter 12D-9, F.A.C., is being created to establish uniform procedures for hearings before value adjustment boards and their special magistrates. Provisions in current Rule Chapter 12D-10, F.A.C., repeat or have comparable provisions to provisions in proposed new Rule Chapter 12D-9, F.A.C. The repeal of specific provisions in current Rule Chapter 12D-10, F.A.C., and the amendment of other provisions in this rule chapter, fulfills the intention of conforming it to proposed new Rule Chapter 12D-9, F.A.C. The repeal eliminates confusion for the public and clarifies the procedures. This rule draft incorporates a series of technical changes and repeals to place current Rule Chapter 12D-10, F.A.C., into consistency with new Rule Chapter 12D-9, F.A.C., as currently proposed. These changes to Rule Chapter 12D-10, F.A.C., are a portion of the changes that will ultimately be proposed to fully implement Chapter 194, F.S.

FACTS AND CIRCUMSTANCES JUSTIFYING THE PROPOSED RULES

These proposed amended and repealed rules in Rule Chapter 12D-10, F.A.C., are necessary to conform this rule chapter to the new rules being proposed for adoption in new Rule Chapter 12D-9, F.A.C.

FEDERAL COMPARISON STATEMENT

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

SUMMARY OF RULE DEVELOPMENT WORKSHOP

Section 120.54(2), F.S., provides that no notice of rule development is required when an entire rule provision is being repealed. However, several notices of proposed rule development on the issues contained in Rule Chapter 12D-10, F.A.C., have been published. A notice of rule development was published on December 5, 2008 (see Vol. 34, No. 49, pp. 6352-6353 of the Florida Administrative Weekly (Weekly)). Subsequently, a Notice of Rule Development for rules in Rule Chapter 12D-10, F.A.C., was published in the Weekly on August 14, 2009 (Vol. 35, No. 32, pp. 3843-3844). Both of these notices explained how written comments could be submitted to the Department by email, and to an Internet site at <http://dor.myflorida.com/dor/property/vabwb/vabws.html>, which was created specifically to give the public access to all versions of these drafts, to submit comments, and to view the comments submitted by others.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 8, 2009

On December 8, 2009, the Governor and Cabinet approved publication of a Notice of Proposed Rule for the partial repeal of provisions in existing Rule Chapter 12D-10, F.A.C. Notice of this December 8, 2009, meeting of the Governor and Cabinet was published in the Weekly on November 25, 2009 (Vol. 35, No. 47, p. 6100).

SUMMARY OF PUBLIC HEARING

HELD ON JANUARY 11, 2010

A rule hearing was held on January 11, 2010. Notice of this public hearing was published in the Weekly on December 18, 2009 (Vol. 35, No. 50, pp. 6430-6434). Representatives of the Department attended, but no member of the public appeared to ask questions or make comments. No written comments have been received by the Department.

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-10, FLORIDA ADMINISTRATIVE CODE
VALUE ADJUSTMENT BOARDS
REPEALING RULES 12D-10.001, 12D-10.002, 12D-10.004,
12D-10.0044, 12D-10.005, AND 12D-10.006
AMENDING RULE 12D-10.003

12D-10.001 Composition of Value Adjustment Board. ~~The value adjustment board may be convened at any time in order to consider necessary business. Each elected member of the board shall serve on the board until he is replaced by a successor elected by his respective parent board or is no longer a member of the governing body or school board of the county. The respective parent boards must elect a replacement for those members of the value adjustment board who are no longer members of the governing body or school board of the county. The quorum requirements of section 194.015, Florida Statutes, may not be waived by anyone, including the petitioner.~~

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 194.015, 213.05 FS. History--New 10-12-76, Formerly 12D-10.01, Amended 12-31-98, Repealed _____.

12D-10.002 Appointment and Employment of Special Magistrates. ~~Special magistrates appointed by the board act in place and stead of the board except to render final decision. The recommendation of a special magistrate to the board shall be in writing and contain the findings~~

~~of fact and conclusions of law upon which the recommendation is based and shall conform to the provisions of Rule 12D-10.003(5)(a) and (b), F.A.C. Proceedings before the special magistrate shall meet all basic requirements of a proceeding before the board, and the special magistrate's records and decisions shall be developed, preserved and maintained as described in Rule 12D-10.003(4).~~

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 194.032, 194.034, 194.035, 213.05 FS. History--New 10-12-76, Formerly 12D-10.02, Repealed.

12D-10.003 Powers, Authority, Duties and Functions of Value Adjustment Board.

(1) The board has no power to fix the original valuation of property for ad valorem tax purposes or to grant an exemption not authorized by law and the board is bound by the same standards as the county property appraiser in determining values and the granting of exemptions. The board has no power to grant relief either by adjustment of the value of a property or by the granting of an exemption on the basis of hardship of a particular taxpayer. The board, in determining the valuation of a specific property, shall not consider the ultimate amount of tax required.

(2) The powers, authority, duties and functions of the board, insofar as they are appropriate, apply equally to real property and tangible personal property (including taxable household goods).

~~(3) A county property appraiser's determination of value is entitled to a presumption of correctness. The petitioning taxpayer has the burden to prove that the property appraiser's determination was incorrect. The presumption of correctness for valuation determinations can be properly rebutted as described in section 194.301, Florida Statutes.~~

~~(4)(a) The verbatim record required by section 194.034(1)(c), Florida Statutes, may be kept by electronic tape recording. The clerk of the board shall maintain the verbatim record and the preserved evidence and listings for a period of not less than four years. All witnesses may be required, upon the request of either party, to testify under oath as administered by the chairman of the board. Witnesses for either party may be cross-examined by the other party when testimony is taken.~~

~~(b) No evidence shall be considered by the board or special magistrate except when presented during the time scheduled for the petitioner's hearing, or at a time when the petitioner has been given reasonable notice. All documentary evidence presented shall be properly preserved and indexed to the verbatim record. Where no decision is rendered in a case, such as where the petition is withdrawn or acknowledged correct by the property appraiser, the reasons for no decision shall be placed in the record and a detailed listing of each case so handled and the reasons therefor shall be compiled by the clerk and maintained along with the verbatim record.~~

~~(c) No petitioner shall present, nor shall the board or special magistrate accept, testimony or other evidentiary materials for consideration that were requested of the petitioner in writing by the property appraiser of which the petitioner had knowledge and deliberately denied to the property appraiser.~~

~~(5)(a) Every decision of the board must contain specific and detailed findings of fact which shall include both ultimate findings of fact and basic and underlying findings of fact. Each basic and underlying finding must be properly annotated to its supporting evidence. For purposes of these rules, the following are defined to mean:~~

~~(a)1.~~ An ultimate finding is a determination of fact. An ultimate finding is usually expressed in the language of a statutory standard and must be supported by and flow rationally from adequate basic and underlying findings.

~~(b)2.~~ Basic and underlying findings are those findings on which the ultimate findings rest and which are supported by evidence. Basic and underlying findings are more detailed than the ultimate findings but less detailed than a summary of the evidence.

~~(c)3.~~ Reasons are those clearly stated grounds upon which the board or property appraiser acted.

~~(b)~~ All decisions made shall include the nature of the change made and indicate the just, taxable, and exempt value before and after the change.

~~(6)~~ The board shall certify each assessment roll or part of an assessment roll after all hearings on that roll or part of a roll have been held. The certificate shall be in the manner and form prescribed by the Department of Revenue and a sufficient number of copies thereof delivered to the property appraiser who shall attach the same to each copy of each assessment roll prepared by the property appraiser. The board shall forward a copy of the certificate to the Department of Revenue.

~~(7)~~ The board shall remain in session until its duties are completed concerning all assessment rolls or parts of assessment rolls. The board may temporarily adjourn from time to time but shall reconvene when necessary in the normal course of business or to hear petitions, complaints, or appeals and disputes filed upon that roll or portion of the roll finally approved which had been disapproved by the Executive Director pursuant to section 193.1142(2), Florida Statutes, or disapproved by the assessment administration review commission or the Supreme Court pursuant to section 195.098, Florida Statutes. A temporary adjournment after consideration of all petitions

~~objecting to an assessment on the roll as submitted to the Department of Revenue under section 193.114(5), Florida Statutes, shall be considered an "adjournment" under section 200.011, Florida Statutes.~~

~~(8) The board may not extend the time for the filing of petitions. However, the failure to meet the statutory deadline for filing a petition to the board is not an absolute bar to consideration of such a petition by the board when the board determines that the petitioner has demonstrated good cause justifying consideration and that the delay will not, in fact, be prejudicial to the performance of its functions in the taxing process.~~

Rulemaking Specific Authority 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 193.122, 194.011, 194.015, 194.032, 194.034, 194.036, 194.037, 194.301, 195.002, 195.096, 196.011, 197.122, 213.05 FS. History--New 10-12-76, Formerly 12D-10.03, Amended 11-10-77, 9-30-82, 12-31-98,_____.

12D-10.004 Receipt of Taxpayer's Petition to Be Acknowledged.

~~(1)(a) The taxpayer has the sole responsibility for filing a petition with the clerk of the value adjustment board to appeal any decision of the property appraiser, including denial of homestead exemption. The prescribed form for filing a petition is Form DR-486 (or DR-486T for tangible personal property), as incorporated by reference in Rule 12D-16.002, F.A.C. Regardless that the value adjustment board uses a form other than Forms DR-486 or DR-486T, as permitted under section 195.022, F.S., a taxpayer may submit, and the value adjustment board must accept, Forms DR-486 and DR-486T.~~

~~(b) The clerk shall acknowledge receipt of the petition and promptly furnish a copy of the petition to the property appraiser. If the taxpayer files a petition after the statutory deadline of 25~~

~~days after the notice of proposed property taxes was mailed, the clerk shall note this fact on the petition and bring it to the attention of the board.~~

~~(c) If any taxpayer's request for homestead exemption is denied by the property appraiser, such taxpayer may file a petition with the clerk of the value adjustment board. The taxpayer must file this petition on or before the 30th day following the mailing (postmark date) of the notice of denial. It is the sole option and responsibility of the taxpayer to file this petition.~~

~~(2) The clerk of the board shall prepare a schedule of appearances before the board based on timely filed petitions. 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.~~

~~(3) For the purposes of section 194.032(2), Florida Statutes, the term "chairman" shall include a special magistrate appointed under section 194.035(1), Florida Statutes.~~

~~(4) Where a petitioner, pursuant to section 194.032(2), Florida Statutes, leaves a scheduled meeting for undue delay, the board or special magistrate is not precluded from considering the petition of the taxpayer. In that event, if the petition contains sufficient information, then the board is authorized to enter its decision on the petition.~~

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.015, 194.032, 195.022, 200.069, 213.05 FS. History--New 10-12-76, Formerly 12D-10.04, Amended 1-11-94, 12-28-95. 12-31-98, 1-20-03, 12-30-04, Repealed _____.

12D-10.0044 Uniform Procedures for Hearings; Procedures for Information and Evidence Exchange Between the Petitioner and Property Appraiser, Consistent with s. 194.032, F.S.; Organizational Meeting; Uniform Procedures to be Available to Petitioners.

~~(1) The value adjustment board must accept Forms DR 486 and DR 486T, regardless that the value adjustment board uses another such form, as permitted under section 195.022, F.S.~~

~~(2) Subsequent to the mailing or sending of the hearing notice, and at least 15 days before the scheduled hearing, the petitioner shall provide the property appraiser with a list and summary of evidence to be presented at the hearing. The list and summary must be accompanied by copies of documentation to be presented at the hearing.~~

~~(3) No later than 7 days before the hearing, if the property appraiser receives the petitioner's documentation and if requested in writing by the petitioner, the property appraiser shall provide the petitioner with a list and summary of evidence to be presented at the hearing. The list and summary must be accompanied by copies of documentation to be presented at the hearing. The evidence list must contain the property record card if provided by the clerk.~~

~~(4)(a) If the taxpayer does not provide the information to the property appraiser at least 15 days prior to the hearing pursuant to subsection (2), the property appraiser need not provide the information to the taxpayer pursuant to subsection (3).~~

~~(b) If the property appraiser does not provide the information within the time required by subsection (3), the hearing shall be rescheduled.~~

~~(5)(a) The exchange in subsections (2) and (3) shall be delivered by regular or certified U.S. mail, personal delivery, overnight mail, FAX or email. It shall be sufficient if at least three (3) FAX or email attempts are made to such address. If more than one (1) FAX number is provided, three (3) attempts must be made for each number to satisfy this requirement. The taxpayer and~~

property appraiser may agree to a different timing and method of exchange. "Provided" means made available in the manner designated by the property appraiser or by the petitioner in his/her submission of information, as via email, facsimile, U.S. mail, or at the property appraiser's office for pick up. If the petitioner does not designate his/her desired manner for receiving the property appraiser's information, the information shall be provided by the property appraiser by depositing it in the U.S. mail.

(b) The information shall be sent to the address listed on the petition form; however, it may be submitted to an email or FAX address if given.

(c) In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. If the fifteenth day before a hearing is a Saturday, Sunday, or legal holiday, the information under subsection (2) shall be provided no later than the previous business day.

(6) Level of detail on evidence summary: The summary pursuant to subsections (2) and (3) shall be sufficiently detailed as to reasonably inform a party of the general subject matter of the witness' testimony, and the name and address of the witness.

(7) Hearing procedures: Neither the Board nor the special magistrate shall take any general action regarding compliance with this section, but any action on each petition shall be considered on a case by case basis. Any action shall be based on a consideration of whether there has been a substantial noncompliance with this section, and shall be taken at a scheduled hearing and based on evidence presented at such hearing. "General action" means a prearranged course of conduct

~~not based on evidence received in a specific case at a scheduled hearing on a petition. A property appraiser shall not appear at the hearing and use undisclosed evidence that was not supplied to the petitioner as required. The normal remedy for such noncompliance shall be a rescheduling of the hearing to allow the petitioner an opportunity to review the information of the property appraiser.~~

~~(8) The petitioner may reschedule the hearing one time by submitting a written request to the clerk of the board no less than five (5) calendar days before the scheduled appearance.~~

~~(9) This rule provides procedures for information and evidence exchange between the petitioner and property appraiser, consistent with s. 194.032, F.S., subject to the provisions of s. 194.034(1)(d), F.S., and subsection 12D-10.003(4), F.A.C., relating to a request by a property appraiser for information from the petitioner in connection with a filed petition, which information need not be provided earlier than fifteen (15) days prior to a scheduled hearing pursuant to subsections (2) and (5).~~

~~(10) The value adjustment board shall hold an organizational meeting and must make the uniform procedures available to petitioners. Such procedures shall be available a reasonable time following the organizational meeting and shall be available a reasonable time before the commencement of hearings in conformance with this rule. The Board shall be deemed to have complied if it causes petitioners to be notified in writing, along with or as part of the notice of hearing, of the existence and availability of its procedures and include notice as to the exchange of information contained in this rule. The Board is authorized to use other additional or alternative means of notification directed to the general public or specific taxpayers, as it may determine.~~

~~(11) Such procedures shall be available in time to permit parties to comply with them, and such procedures, and the provisions of this rule, shall apply to petitions heard on and after January 1, 2003.~~

Rulemaking Specific Authority 194.011(5), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.015, 194.032, 194.034.035, 195.022, 200.069, 213.05 FS. History–New 4-4-04, Amended 12-30-04, Repealed _____.

12D-10.005 Duty of Clerk to Prepare and Transmit Record.

~~(1) To the extent not inconsistent with the Florida Rules of Appellate Procedure, when applicable, when a change in the tax roll made by the board becomes subject to review by the Circuit Court pursuant to section 194.036, Florida Statutes, it shall be the duty of the clerk, when requested, to prepare the record for review. The record shall consist of a copy of each paper, including the petition and each exhibit in the proceeding together with a copy of the board's decision and written findings of fact and conclusions of law. The clerk shall transmit to the Court this record, and the clerk's certification of the record which shall be in the following form:~~

Certification of Record

I hereby certify that the attached record, consisting of sequentially numbered pages one through, consists of true copies of all papers, exhibits, and the Board's findings of fact and conclusions of law, in the proceeding before the _____ County Value Adjustment Board upon petition numbered filed by

Clerk of Value Adjustment Board

By: _____

Deputy Clerk

Should the verbatim transcript be prepared other than by a court reporter, the clerk shall also make the following certification:

~~CERTIFICATION OF VERBATIM TRANSCRIPT~~

~~I hereby certify that the attached verbatim transcript consisting of sequentially numbered pages through _____ is an accurate and true transcript of the hearing held on _____ in the proceeding before the County Value Adjustment Board petition numbered filed by:~~

~~_____~~

~~Clerk of Value Adjustment Board~~

~~By: _____~~

Deputy Clerk

~~(2) The clerk shall provide the petitioner and property appraiser, upon their request, a copy of the record at no more than actual cost.~~

~~Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 194.032, 194.036, 213.05 FS. History--New 10-12-76, Amended 11-10-77, Formerly 12D-10.05, Repealed _____.~~

12D-10.006 Public Notice of Findings and Results of Value Adjustment Board.

~~(1) After all hearings have been completed the clerk of the value adjustment board shall publish a public notice advising all taxpayers of the findings and results of the board. The public notice shall be in the form of a newspaper advertisement and shall be referred to as the "tax impact notice". The format of the tax impact notice shall be substantially as follows:~~

~~(2) The size of the notice shall be at least a quarter page size advertisement of a standard or tabloid size newspaper. The newspaper notice shall include all of the above information and no change shall be made in the format or content without Department approval. The notice shall be published in a part of the paper where legal notices and classified ads are not published.~~

~~(3) The notice of the findings and results of the value adjustment board shall be published in a newspaper of paid general circulation within the county. It shall be the specific intent of the publication of notice to reach the largest segment of the total county population. Any newspaper of less than general circulation in the county shall not be considered for publication except to supplement notices published in a paper of general circulation.~~

~~(4) The headline of the notice shall be set in a type no smaller than 18 point and shall read "TAX IMPACT OF VALUE ADJUSTMENT BOARD."~~

~~(5) It shall be the duty of the clerk of the value adjustment board to insure publication of the notice after the board has heard all petitions, complaints, appeals, and disputes.~~

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 50, 194.032, 194.034, 194.037, 213.05 FS. History--New 2-12-81, Formerly 12D-10.06, Repealed _____.

Proposed Amendments to
Rule 12D-16.002, F.A.C.

(Index to Forms)

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12D-16, FLORIDA ADMINISTRATIVE CODE
PROPERTY TAX OVERSIGHT PROGRAM
AMENDING RULE 12D-16.002

SUMMARY OF THE PROPOSED RULE

The proposed revisions to Rule 12D-16.002, F.A.C., amend specific existing forms, and add new forms to the list of forms used by the Department. These forms support:

- the proposed new and amended rules on value adjustment board (the board) hearing procedures, including:
 - substantially revised and new forms petitioners will use to request a hearing;
 - a specific form to send to petitioners that provides them notice of their hearing; and,
 - a series of forms to be used by boards and their special magistrates to document and explain recommended and final decisions; and,
- procedures for denying or disapproving a taxpayer's application for an exemption or special property classification; and,
- procedures for certification of value adjustment board compliance with applicable Florida law and the rules contained in new Rule Chapter 12D-9, F.A.C.

FACTS AND CIRCUMSTANCES JUSTIFYING THE PROPOSED RULE

The new and revised forms being adopted in this rule support the proposed new rules in Rule Chapter 12D-9, F.A.C., which are necessary to implement the provisions of Chapter 194, F.S.

FEDERAL COMPARISON STATEMENT

The provisions contained in these proposed rule changes do not conflict with federal laws, policies, or standards.

SUMMARY OF RULE DEVELOPMENT WORKSHOPS

The current proposed forms contained in this notice that support the proposed rules in new Rule Chapter 12D-9, F.A.C., were developed using a multi-step process designed to maximize public participation:

In 2008, the Department held seven workshops to develop a rule draft. After these workshops, it became evident that a different approach was required. The Department instead used a multi-step process designed to maximize public participation:

- Value adjustment board hearing procedure issues were discussed with interested parties in a round-table forum at three day-long public meetings—March 13, 2009 (notice of which was published in the Florida Administrative Weekly (Weekly) in Vol. 35, No. 8, p. 1000); May 12, 13, and 14, 2009 (notice was published in the Weekly in Vol. 35, No. 16, p. 1990); and July 2, 2009 (notice was published in the Weekly in Vol. 35, No. 25, p. 3113);
- Proposed rules were written based on these discussions;
- A subsequent rule development workshop was held to receive public comments on the proposed rules—August 4, 2009 (notice was published in the Weekly in Vol. 35, No. 28, pp. 3350-3352); and,
- A revised draft was developed based on the workshop. Members of the public attended each of these meetings and the workshop and made comments.

In addition, written comments have been submitted to the Department by email, and to an Internet site at <http://dor.myflorida.com/dor/property/vabwb/vabws.html>, which was created specifically to give the public a location to post comments, to access all revised versions of the rules and forms, and to view comments submitted on these proposed new and amended rules and forms.

SUMMARY OF PUBLIC HEARING

HELD ON AUGUST 25, 2009

On August 25, 2009, the Governor and Cabinet approved publication of a Notice of Proposed Rule for the proposed amendments to this rule. Notice of this August 25, 2009, meeting of the Governor and Cabinet was published in the Weekly on August 14, 2009 (Vol. 35, No. 32, pp. 3893-3894).

SUMMARY OF PUBLIC HEARING

HELD ON OCTOBER 9, 2009

On October 9, 2009, the Department held a rule public hearing on the proposed amendments to Rule 12D-16.002, F.A.C. Notice of this public hearing was published in the Weekly on September 4, 2009 (Vol. 35, No. 35, pp. 4277-4280). Comments on these proposed amendments were received from the public during and after the hearing. In addition, the Department received comments from the Joint Administrative Procedures Committee.

SUMMARY OF PUBLIC HEARING

HELD ON DECEMBER 14, 2009

The Department held a second rule public hearing on December 14, 2009. Notice of this public hearing was published in the Weekly on December 4, 2009 (Vol. 35, No. 48, pp. 6178-6179). Additional comments on these proposed rule amendments were received from the public during and after the hearing. Also, the Department received comments from the Joint Administrative Procedures Committee.

Based on comments received since the publication of the Notice of Proposed Rule, the Department published a Notice of Change for these proposed rule amendments on January 22, 2010 (Vol. 36, No. 3, pp. 405—406).

DEPARTMENT OF REVENUE
 RULE CHAPTER 12D-16, FLORIDA ADMINISTRATIVE CODE
 ADMINISTRATION OF FORMS
 AMENDING RULE 12D-16.002

12D-16.002 Index to Forms.

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

Form Number	Title	Effective Date
(2) through (21)(d)	No change.	
(22) <u>DR-481</u>	<u>Value Adjustment Board-Notice of Hearing (n. 12/09)</u>	_____
<u>(23)(a) DR-482</u>	Application and Return for Agricultural Classification of Lands (r. 12/00)	1/01
(b) through (d)	No change.	
<u>(24) (23) DR-484</u>	Budget form for Appraisers <u>(n. 2/90)</u>	2/90
<u>(25)</u>	<u>485 Series:</u>	
<u>(a) DR-485M</u>	<u>Notice of Decision of the Value Adjustment Board (n. 12/09)</u>	_____
<u>(b) DR-485R</u>	<u>Value Adjustment Board—Remand to Property Appraiser (n. 12/09)</u>	_____
<u>(c) DR-485V</u>	<u>Decision of The Value Adjustment Board—</u>	

	<u>Value Petition (n. 12/09)</u>	_____
<u>(d) DR-485WCN</u>	<u>Value Adjustment Board-Clerk's Notice (n. 12/09)</u>	_____
<u>(e) DR-485WI</u>	<u>Value Adjustment Board—Withdrawal of Petition (n. 12/09)</u>	_____
<u>(f) DR-485XC</u>	<u>Decision of the Value Adjustment Board- Exemption, Classification, or Assessment Difference Transfer Petition (n. 12/09)</u>	_____
DR-485	Record of Decision and Notice of the Value Adjustment Board (r. 12/96)	12/96
(26) (25)	486 Series:	
<u>(a) DR-486</u>	<u>Petition to <u>The</u> Value Adjustment Board- Request for Hearing (r. 12/0912/96)</u>	_____ 12/96
<u>(b) DR-486DP</u>	<u>Petition to the Value Adjustment Board-Tax Deferral or Penalties-Request for Hearing (n. 12/09)</u>	_____
<u>(c) DR-486PORT</u>	<u>Petition to the Value Adjustment Board-Transfer of Homestead Assessment Difference-Request for Hearing (r. 12/09)</u>	_____
<u>(d) DR-486XCO</u>	<u>Cross-County Notice of Appeal and Petition-Transfer of Homestead Assessment Difference (r. 12/09)</u>	_____
DR-486T	Petition to Value Adjustment Board-Tangible Personal Property (r. 2/92)	12/94
<u>(e) DR-487</u>	<u>Certification of Compliance (r. 12/99)</u>	12/96
<u>(27) (26) (a)DR-488</u>	<u>Certification Certificate of <u>the</u> Value Adjustment</u>	

	Board (r. <u>12/09</u> 3/92)	_____ 1/00
<u>(b) DR-488P</u>	<u>Initial Certification of the Value Adjustment Board (n. 12/09)</u>	_____
(27) through (28)(d) renumbered as (28) through (29)(d) No change.		
<u>(30)</u> (29) (a) DR-490	Notice of Disapproval of Application for Property Tax Exemption <u>or Classification</u> by The County Property Appraiser (r. <u>12/09</u> 12/03)	_____ 1/04
<u>(b) DR-490PORT</u>	<u>Notice of Denial of Transfer of Homestead Assessment Difference (r. 12/09)</u>	_____
(b) DR-491	Notice of Denial of Application for Agricultural or High-Water Recharge Classification of Lands (r. 12/96)	12/96
(30)(a) through (50)(b) renumbered as (31)(a) through (51)(b) No change.		
(c) DR-529	Notice- of Tax Impact of Value Adjustment Board (example only) (r. <u>12/09</u> 12/96)	_____ 12/96
(51)(a) through (55) renumbered as (52)(a) through (56) No change.		
(57)(a) DR-570	Application for Homestead Tax Deferral (r. 7/06)	10/07
(b) DR-570WF	Application for Recreational and Commercial Working Waterfronts Tax Deferral (n. 7/06)	10/07
<u>(a)DR-571A</u> DR-571	Notice of Disapproval of Application for Homestead Tax Deferral-<u>Homestead, Affordable Rental Housing,</u> <u>or Working Waterfront (n.12/09</u> r. 6/91)	_____ 6/91
(d) DR-571WF	Notice of Disapproval of Application for Recreational and Commercial Working Waterfronts Tax	

	Deferral (r. 12/05)	1/06
DR-572	Petition to Value Adjustment Board—	
	Homestead Tax Deferral (r. 6/91)	6/91
(b) DR-572WF	Petition to Value Adjustment Board Recreational	
	and Commercial Working Waterfronts (n. 12/05)	1/06
(b)(e) DR-584	Tax Collectors Budget Schedule (r. 2/94)	12/94
(c)(d) DR-585	Minimum Standards Contract (n. 8/77)	8/77

(58) through (61)(b) No change.

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 92.525, 95.18, 136.03, 192.001(18), 193.052, 193.077, 193.085, 193.092, 193.114, 193.122, 193.461, 193.503, 193.625, 193.703, 194.011, 194.032, 194.034, 194.035, 194.037, 195.002, 195.022, 195.087, 195.095, 196.011, 196.015, 196.031, 196.075, 196.095, 196.101, 196.121, 196.141, 196.151, 196.193, 196.1961, 196.1983, 196.1995, 196.202, 196.24, 197.182, 197.222, 197.253, 197.304, 197.3041, 197.3632, 197.3635, 197.414, 197.432, 197.472, 197.502, 197.512, 197.552, 200.065, 200.069, 213.05, 218.66 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, _____.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC HEARING

The Department of Revenue announces a public meeting to which all persons are invited:

DATE AND TIME: February 24, 2010, during a regular meeting of the Governor and Cabinet, which begins at 9:00 a.m.

PLACE: Cabinet Meeting Room, Lower Level, The Capitol, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Adoption of proposed rules in new Rule Chapter 12D-9, F.A.C. (Requirements for Value Adjustment Boards in Administrative Reviews; Uniform Rules of Procedure for Hearings), partial repeal of provisions in Rule Chapter 12D-10, F.A.C. (Value Adjustment Board), and revised Rule 12D-16.002 (Index to Forms), F.A.C. Notice of the proposed adoption of rules in new Rule Chapter 12D-9, F.A.C., and revisions to Rule 12D-16.002, F.A.C., were published in the Florida Administrative Weekly (Weekly) on September 4, 2009 (Vol. 35, No. 35, pp. 4249-4280). Notice of the proposed partial repeal of provisions in Rule Chapter 12D-10, F.A.C., was published in the Weekly on December 18, 2009 (Vol. 35, No. 50, pp. 6430-6434). Notices of Change for the rules in new Rule Chapter 12D-9, F.A.C., and Rule 12D-16.002, F.A.C., were published in the January 22, 2010 edition of the Weekly (Vol. 36, No. 3). A second Notice of Change for new Rule Chapter 12D-9, F.A.C., was published in the February 5, 2010 edition of the Weekly (Vol. 36, No. 5).

A copy of the agenda may be obtained by contacting: Janice Forrester at (850)922-7945 or ForrestJ@dor.state.fl.us

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the Department at least 48 hours before the meeting by contacting: Janice Forrester at (850)922-7945 or ForrestJ@dor.state.fl.us.

If you are hearing or speech impaired, please contact the Department using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).