

1 A bill to be entitled

2 An act relating to the maintenance of agency final  
3 orders; amending s. 119.021, F.S.; conforming a  
4 provision to changes made by the act; amending s.  
5 120.53, F.S.; requiring agencies to electronically  
6 transmit certain agency final orders to a centralized  
7 electronic database maintained by the Division of  
8 Administrative Hearings; providing the methods by  
9 which such final orders can be searched; requiring  
10 each agency to maintain a list of final orders that  
11 are not required to be electronically transmitted to  
12 the database; providing a timeframe for electronically  
13 transmitting or listing the final orders; authorizing  
14 agencies to maintain subject matter indexes of final  
15 orders issued before a specified date or to  
16 electronically transmit such orders to the database;  
17 providing that the centralized electronic database is  
18 the official compilation of administrative final  
19 orders issued on or after a specified date for each  
20 agency; deleting obsolete provisions regarding filing,  
21 indexing, and publishing final orders; amending ss.  
22 120.533 and 213.22, F.S.; conforming cross-references;  
23 providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:  
26

27 Section 1. Subsection (3) of section 119.021, Florida  
 28 Statutes, is amended to read:

29 119.021 Custodial requirements; maintenance, preservation,  
 30 and retention of public records.—

31 (3) Agency orders that comprise final agency action and  
 32 that were ~~must be~~ indexed or listed before July 1, 2015, or must  
 33 be listed pursuant to s. 120.53 have continuing legal  
 34 significance; therefore, notwithstanding any other provision of  
 35 this chapter or any provision of chapter 257, each agency shall  
 36 permanently maintain records of such orders pursuant to the  
 37 applicable rules of the Department of State.

38 Section 2. Section 120.53, Florida Statutes, is amended to  
 39 read:

40 120.53 Maintenance of agency final orders; ~~indexing;~~  
 41 ~~listing; organizational information.~~—

42 (1) In addition to the requirements for maintaining  
 43 records contained in s. 119.021(3), each agency shall also  
 44 electronically transmit a text-searchable copy of each final  
 45 agency order listed in subsection (2) rendered on or after July  
 46 1, 2015, to a centralized electronic database of agency final  
 47 orders maintained by the division. The database must allow users  
 48 to research and retrieve the full texts of agency final orders  
 49 by:

50 (a) The name of the agency that issued the final order.

51 (b) The date the final order was issued.

52 (c) The type of final order.

53            (d) The subject of the final order.

54            (e) Terms contained in the text of the final order.

55            ~~(a) Each agency shall maintain:~~

56            ~~1. All agency final orders.~~

57            ~~2.a. A current hierarchical subject matter index,~~

58 ~~identifying for the public any rule or order as specified in~~

59 ~~this subparagraph.~~

60            ~~b. In lieu of the requirement for making available for~~

61 ~~public inspection and copying a hierarchical subject matter~~

62 ~~index of its orders, an agency may maintain and make available~~

63 ~~for public use an electronic database of its orders that allows~~

64 ~~users to research and retrieve the full texts of agency orders~~

65 ~~by devising an ad hoc indexing system employing any logical~~

66 ~~search terms in common usage which are composed by the user and~~

67 ~~which are contained in the orders of the agency or by~~

68 ~~descriptive information about the order which may not be~~

69 ~~specifically contained in the order.~~

70            (2)e. The agency final orders that must be electronically

71 transmitted to the centralized electronic database indexed,

72 ~~unless excluded under paragraph (c) or paragraph (d), include:~~

73            (a)(I) Each final agency order resulting from a proceeding

74 under s. 120.57 or s. 120.573.

75            (b)(II) Each final agency order rendered pursuant to s.

76 120.57(4) which contains a statement of agency policy that may

77 be the basis of future agency decisions or that may otherwise

78 contain a statement of precedential value.

79 (c)~~(III)~~ Each declaratory statement issued by an agency.

80 (d)~~(IV)~~ Each final order resulting from a proceeding under  
 81 s. 120.56 or s. 120.574.

82 (3)~~3.~~ Each agency shall maintain a list of all final  
 83 orders rendered pursuant to s. 120.57(4) that are not required  
 84 to be electronically transmitted to the centralized electronic  
 85 database which have been excluded from the indexing requirement  
 86 of this section, with the approval of the Department of State,  
 87 because they do not contain statements of agency policy or  
 88 statements of precedential value. The list must include the name  
 89 of the parties to the proceeding and the number assigned to the  
 90 final order.

91 ~~4. All final orders listed pursuant to subparagraph 3.~~

92 (4)~~(b)~~ Each An agency final order, whether rendered by the  
 93 agency or the division, that must be electronically transmitted  
 94 to the centralized electronic database or maintained on a list  
 95 pursuant to subsection (3) must be electronically transmitted to  
 96 the database or added to the list within 90 days after the final  
 97 ~~indexed or listed pursuant to paragraph (a) must be indexed or~~  
 98 ~~listed within 120 days after the order is rendered.~~ Each final  
 99 order that must be electronically transmitted to the database or  
 100 added to the list indexed or listed pursuant to paragraph (a)  
 101 must have attached a copy of the complete text of any materials  
 102 incorporated by reference; however, if the quantity of the  
 103 materials incorporated makes attachment of the complete text of  
 104 the materials impractical, the final order may contain a

105 statement of the location of such materials and the manner in  
106 which the public may inspect or obtain copies of the materials  
107 incorporated by reference. ~~The Department of State shall~~  
108 ~~establish by rule procedures for indexing final orders, and~~  
109 ~~procedures of agencies for indexing orders must be approved by~~  
110 ~~the department.~~

111 (5) Nothing in this section relieves an agency from its  
112 responsibility for maintaining a subject matter index of final  
113 orders rendered before July 1, 2015, and identifying the  
114 location of the subject matter index on the agency's website. In  
115 addition, an agency may electronically transmit to the  
116 centralized electronic database all of the final orders that  
117 were rendered before July 1, 2015, which were required to be in  
118 the subject matter index. The centralized electronic database  
119 constitutes the official compilation of administrative final  
120 orders rendered on or after July 1, 2015, for each agency.

121 ~~(c) Each agency must receive approval in writing from the~~  
122 ~~Department of State for:~~

123 ~~1. The specific types and categories of agency final~~  
124 ~~orders that may be excluded from the indexing and public~~  
125 ~~inspection requirements, as determined by the department~~  
126 ~~pursuant to paragraph (d).~~

127 ~~2. The method for maintaining indexes, lists, and final~~  
128 ~~orders that must be indexed or listed and made available to the~~  
129 ~~public.~~

130 ~~3. The method by which the public may inspect or obtain~~

131 ~~copies of indexes, lists, and final orders.~~

132 ~~4. A sequential numbering system which numbers all final~~  
133 ~~orders required to be indexed or listed pursuant to paragraph~~  
134 ~~(a), in the order rendered.~~

135 ~~5. Proposed rules for implementing the requirements of~~  
136 ~~this section for indexing and making final orders available for~~  
137 ~~public inspection.~~

138 ~~(d) In determining which final orders may be excluded from~~  
139 ~~the indexing and public inspection requirements, the Department~~  
140 ~~of State may consider all factors specified by an agency,~~  
141 ~~including precedential value, legal significance, and purpose.~~  
142 ~~Only agency final orders that are of limited or no precedential~~  
143 ~~value, that are of limited or no legal significance, or that are~~  
144 ~~ministerial in nature may be excluded.~~

145 ~~(e) Each agency shall specify the specific types or~~  
146 ~~categories of agency final orders that are excluded from the~~  
147 ~~indexing and public inspection requirements.~~

148 ~~(f) Each agency shall specify the location or locations~~  
149 ~~where agency indexes, lists, and final orders that are required~~  
150 ~~to be indexed or listed are maintained and shall specify the~~  
151 ~~method or procedure by which the public may inspect or obtain~~  
152 ~~copies of indexes, lists, and final orders.~~

153 ~~(g) Each agency shall specify all systems in use by the~~  
154 ~~agency to search and locate agency final orders that are~~  
155 ~~required to be indexed or listed, including, but not limited to,~~  
156 ~~any automated system. An agency shall make the search~~

157 ~~capabilities employed by the agency available to the public~~  
158 ~~subject to reasonable terms and conditions, including a~~  
159 ~~reasonable charge, as provided by s. 119.07. The agency shall~~  
160 ~~specify how assistance and information pertaining to final~~  
161 ~~orders may be obtained.~~

162 ~~(h) Each agency shall specify the numbering system used to~~  
163 ~~identify agency final orders.~~

164 ~~(2)(a) An agency may comply with subparagraphs (1)(a)1.~~  
165 ~~and 2. by designating an official reporter to publish and index~~  
166 ~~by subject matter each agency order that must be indexed and~~  
167 ~~made available to the public, or by electronically transmitting~~  
168 ~~to the division a copy of such orders for posting on the~~  
169 ~~division's website. An agency is in compliance with subparagraph~~  
170 ~~(1)(a)3. if it publishes in its designated reporter a list of~~  
171 ~~each agency final order that must be listed and preserves each~~  
172 ~~listed order and makes it available for public inspection and~~  
173 ~~copying.~~

174 ~~(b) An agency may publish its official reporter or may~~  
175 ~~contract with a publishing firm to publish its official~~  
176 ~~reporter; however, if an agency contracts with a publishing firm~~  
177 ~~to publish its reporter, the agency is responsible for the~~  
178 ~~quality, timeliness, and usefulness of the reporter. The~~  
179 ~~Department of State may publish an official reporter for an~~  
180 ~~agency or may contract with a publishing firm to publish the~~  
181 ~~reporter for the agency; however, if the department contracts~~  
182 ~~for publication of the reporter, the department is responsible~~

183 ~~for the quality, timeliness, and usefulness of the reporter. A~~  
184 ~~reporter that is designated by an agency as its official~~  
185 ~~reporter and approved by the Department of State constitutes the~~  
186 ~~official compilation of the administrative final orders for that~~  
187 ~~agency.~~

188 ~~(c) A reporter that is published by the Department of~~  
189 ~~State may be made available by annual subscription, and each~~  
190 ~~agency that designates an official reporter published by the~~  
191 ~~department may be charged a space rate payable to the~~  
192 ~~department. The subscription rate and the space rate must be~~  
193 ~~equitably apportioned to cover the costs of publishing the~~  
194 ~~reporter.~~

195 ~~(d) An agency that designates an official reporter need~~  
196 ~~not publish the full text of an agency final order that is~~  
197 ~~rendered pursuant to s. 120.57(4) and that must be indexed~~  
198 ~~pursuant to paragraph (1)(a), if the final order is preserved by~~  
199 ~~the agency and made available for public inspection and copying~~  
200 ~~and the official reporter indexes the final order and includes a~~  
201 ~~synopsis of the order. A synopsis must include the names of the~~  
202 ~~parties to the order; any rule, statute, or constitutional~~  
203 ~~provision pertinent to the order; a summary of the facts, if~~  
204 ~~included in the order, which are pertinent to the final~~  
205 ~~disposition; and a summary of the final disposition.~~

206 ~~(3) Agency orders that must be indexed or listed are~~  
207 ~~documents of continuing legal value and must be permanently~~  
208 ~~preserved and made available to the public. Each agency to which~~



209 ~~this chapter applies shall provide, under the direction of the~~  
 210 ~~Department of State, for the preservation of orders as required~~  
 211 ~~by this chapter and for maintaining an index to those orders.~~

212 ~~(4) Each agency must provide any person who makes a~~  
 213 ~~request with a written description of its organization and the~~  
 214 ~~general course of its operations.~~

215 Section 3. Subsection (1) of section 120.533, Florida  
 216 Statutes, is amended to read:

217 120.533 Coordination of listing of final orders indexing  
 218 by Department of State.—The Department of State shall:

219 (1) Administer the coordination of the ~~indexing,~~  
 220 management, preservation, and availability of agency orders that  
 221 must be ~~indexed or~~ listed pursuant to s. 120.53 ~~s. 120.53(1)~~.

222 Section 4. Subsection (1) of section 213.22, Florida  
 223 Statutes, is amended to read:

224 213.22 Technical assistance advisements.—

225 (1) The department may issue informal technical assistance  
 226 advisements to persons, upon written request, as to the position  
 227 of the department on the tax consequences of a stated  
 228 transaction or event, under existing statutes, rules, or  
 229 policies. After the issuance of an assessment, a technical  
 230 assistance advisement may not be issued to a taxpayer who  
 231 requests an advisement relating to the tax or liability for tax  
 232 in respect to which the assessment has been made, except that a  
 233 technical assistance advisement may be issued to a taxpayer who  
 234 requests an advisement relating to the exemptions in s.

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235 212.08(1) or (2) at any time. Technical assistance advisements  
236 shall have no precedential value except to the taxpayer who  
237 requests the advisement and then only for the specific  
238 transaction addressed in the technical assistance advisement,  
239 unless specifically stated otherwise in the advisement. Any  
240 modification of an advisement shall be prospective only. A  
241 technical assistance advisement is not an order issued pursuant  
242 to s. 120.565 or s. 120.569 or a rule or policy of general  
243 applicability under s. 120.54. The provisions of s. 120.53 ~~s.~~  
244 ~~120.53(1)~~ are not applicable to technical assistance  
245 advisements.

246 Section 5. This act shall take effect July 1, 2015.