

NATIONAL RECOVERY ADMINISTRATION

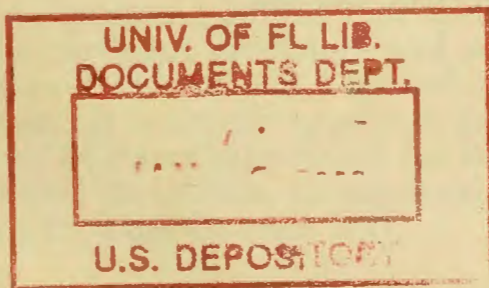
SUPPLEMENTARY  
CODE OF FAIR COMPETITION

FOR THE

ROOFING AND SHEET METAL  
CONTRACTING INDUSTRY

(A Division of the Construction Industry)

AS APPROVED ON MAY 10, 1934



UNITED STATES  
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Approved Code No. 244—Supplement No. 8

**CODE OF FAIR COMPETITION**

FOR THE

**ROOFING AND SHEET METAL CONTRACTING  
INDUSTRY**

As Approved on May 10, 1934

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**ORDER**

**SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE ROOFING AND  
SHEET METAL CONTRACTING INDUSTRY**

A DIVISION OF THE CONSTRUCTION INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, and pursuant to and in full compliance with the provisions of Section 5 of Article VIII of Chapter I of the Code of Fair Competition for the Construction Industry, approved January 31, 1934, for approval of Chapter VII of said Code, which Chapter VII is applicable to the Roofing and Sheet Metal Contracting Division of the Construction Industry, and hearings having been held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Chapter complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Chapter VII be and it is hereby approved and that the previous approval of said Code of Fair Competition for the Construction Industry is hereby modified to include an approval of said Code in its entirety as modified by said Chapter VII.

HUGH S. JOHNSON,  
*Administrator for Industrial Recovery.*

Approval recommended:

GEO. L. BERRY,  
*Division Administrator.*

WASHINGTON, D.C.  
*May 10, 1934.*

## REPORT TO THE PRESIDENT

The PRESIDENT,  
*The White House.*

SIR: This is a report on Chapter VII of the Code of Fair Competition for the Construction Industry, which Chapter is a revision, after a formal public hearing on November 28, 1933 of a Code of Fair Competition for Roofing and Sheet Metal Contracting.

This Chapter, applicable specifically to the Roofing and Sheet Metal Contracting Division of the Construction Industry, supplements the basic Code of Fair Competition for the Construction Industry, described as Chapter I of such Code, which was approved by you on January 31, 1934. The hearing was conducted in accordance with the provisions of the National Industrial Recovery Act.

### THE INDUSTRY

The Roofing and Sheet Metal Contracting Division is an important branch of the construction industry. It is divided into several separate and distinct divisions. This Division embraces shingles, metal and composition roofing; waterproofing of all types of structures; caulking, insulation, the laying of subflooring and tar concrete sidewalks; as well as the fabricating, furnishing, erecting, installing, applying, repairing, servicing or maintaining of sheet metal work required for a specific project in buildings and structures.

### PROVISIONS FOR HOURS AND WAGES

The provisions for hours and wages are set out in Chapter I of the Construction Code, which was approved by you on January 31, 1934, and the same provisions, with certain additional exceptions beneficial to employees, are applicable, under this Chapter, to the Roofing and Sheet Metal Contracting Division.

### ECONOMIC EFFECT OF THE CODE

The volume of roofing and sheet metal work in 1929 totaled \$145,000,000. In 1933 this volume had dwindled to \$28,900,000.

It is safe to say, with the prohibition of unfair trade practices and the establishment of minimum rates of pay and maximum hours of work, that more wholesome conditions will take form in this Industry and that employees, employers, and a part of the public will be benefitted.

### FINDINGS

The Deputy Administrator in his final report to me on Chapter VII of the Code of Fair Competition for the Construction Industry

as modified by the addition thereto of said Chapter VII, having found as herein set forth and on the basis of all the proceedings in this matter:

I find that:

(a) Said Chapter VII and said Code of Fair Competition for the Construction Industry, as modified by the addition thereto of said Chapter VII are well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstruction to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Chapter VII and the Code of Fair Competition for the Construction Industry as modified by the addition thereto of said Chapter VII, as approved, comply in all respects with the pertinent provisions of said Title of said Act, including without limitation sub-section (a) of Section 3, sub-section (a) of Section 7, and sub-section (b) of Section 10 thereof; and that the applicant group is an industrial group truly representative of the aforesaid Industry; and that said group imposes no inequitable restrictions on admission to membership therein.

(c) Said Industry normally employs not more than fifty thousand employees; and is not classified by me as a major industry.

(d) Said Chapter VII and the Code of Fair Competition for the Construction Industry as modified by the addition thereto of said Chapter VII, are not designed to and will not permit monopolies or monopolistic practices.

(e) Said Chapter VII and the Code of Fair Competition for the Construction Industry as modified by the addition thereto of said Chapter VII, are not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Chapter VII and of said Code as modified by the addition thereto of this Chapter VII thereof.

For these reasons, therefore, I have approved said Chapter VII and said Code, as modified by the addition thereto of said Chapter VII thereof.

Respectfully,

HUGH S. JOHNSON,  
*Administrator.*

MAY 10, 1934.

## CHAPTER VII

# ROOFING AND SHEET METAL CONTRACTING DIVISION OF THE CONSTRUCTION INDUSTRY

### ARTICLE I—DEFINITIONS

SECTION 1. The term "Roofing and Sheet Metal Contracting Division", or "this Division", as used herein shall mean the contracting for and

(a) the installing, applying, repairing, re-roofing and servicing or maintenance, of roofs, on which sheet metal, slate, tile, asbestos or composition or membrane roofing, asbestos or other roll roofing, insulation and other special treatment of roof surfaces is required, and the furnishing of the materials therefor as a part of such contracting; the erecting, and applying, of sheet metal, slate, tile and asbestos used for siding on any building or structure, and the furnishing thereof as a part of such contracting;

(b) the re-roofing, servicing and maintenance of roofs on which asphalt shingles or asphalt roll roofing are required, and the furnishing of materials therefor in connection therewith, and the applying of asphalt materials used for siding on any building or structure, and the furnishing of materials in connection therewith;

(c) the supplying and laying of plastic subflooring such as asphalt, mastic asphalt, and tar concrete floors or sidewalks in or about building structures, but shall not include those made of similar materials which are preformed and laid in Portland cement grout or the contracting therefor;

(d) the waterproofing of any type of structure below or above ground surface with asphalt, pitch, felt, cotton, cement, chemically treated iron, and applying the necessary protection courses, but shall not include the integral waterproofing of mass concrete or the contracting therefor;

(e) the waterproofing of bridges, viaducts, abutments, dams or any other type of non-habitable structure, spandrel beams, columns or any other structural members with any type of material, including the cutting, pointing, caulking and application or waterproofing compound, but shall not include the integral method of waterproofing mass concrete or the contracting therefor;

(f) the dampproofing of interior surfaces of walls of any type of structure with any type of material which may be applied in the fluid or semi-fluid state, whether or not reinforced with fabrics, felts or like material;

(g) the caulking with any or all types of materials of door and window frames as well as the installation with any and all types of materials of expansion joints in connection with waterproofing on any and all types of structures;

(h) the installing and applying of insulation in connection with any of the work included in this Division;

(i) the fabricating, erecting, installing, applying, repairing, servicing or maintaining of sheet metal work of No. 10 U.S., or its equivalent or lighter gauge and the furnishing thereof in connection therewith, required as part of a specific project on or in buildings and structures, including, among others, skylights of sheet metal, rolled or extruded shapes; the installation of metal ceilings, of warm air furnace heating systems and air conditioning and cooling systems used in connection therewith, of sheet metal work in connection with heating, ventilating and air conditioning systems, including the mechanical apparatus and equipment when included in the sheet metal contract, of blowpipe and exhaust systems, and of sheet metal products and equipment used in or for industrial plants, or for agricultural or domestic use, but shall not include the contracting for, or installation of, sheet metal work manufactured, fabricated or assembled as part of a product of another industry;

(j) the fabricating, erecting, installing, applying, repairing or servicing of sheet metal work and the furnishing of the materials as a part of such contracting, in connection with food service and beverage equipment excluding equipment and accessories manufactured for sale;

(k) the fabricating, erecting, installing, applying, repairing, or maintaining of coppersmith work regardless of gauge, and the furnishing of the materials therefor in connection therewith, when such work is required as part of a specific project on or in buildings and structures, excluding however, coppersmithing work manufactured, fabricated or assembled as part of a product of another industry.

SECTION 2. Nothing in the definition of this Industry shall in any way be construed as affecting the classification of labor employed under this Chapter of this Code.

SECTION 3. The terms "contractor" and "member of this Division", shall include anyone engaged, wholly or in part, in this Division as defined in Section 1 of this Article.

## ARTICLE II—WAGES, HOURS, AND GENERAL LABOR CONDITIONS

SECTION 1. The following are exempted from the provisions of subdivision B of Section 2 of Article III of Chapter I of this Code:

(a) Employees engaged in a professional, executive, or supervisory capacity receiving more than thirty-five (\$35.00) per week. However, no employee engaged in a supervisory capacity who performs manual labor shall be included in this exception.

(b) Salesmen and estimators.

(c) Truck drivers, who shall be permitted to work not in excess of forty-eight (48) hours nor more than six (6) days in any one week.

(d) Kettlemen, provided that application is made to and approved by the National Construction Planning and Adjustment Board or proper Regional Board established by it, requesting that such employees may be exempted from the standard hourly limitation. In no case, however, may such employees be permitted to work in excess of forty-eight (48) hours or six (6) days in any one week.

(e) Watchmen, who shall be permitted to work not in excess of fifty-six (56) hours in any one week and not more than six (6) days in any seven (7) day period.

SECTION 2. Wages as they become due shall be payable in lawful currency of the United States, or by negotiable check therefor payable on demand at par. If wages are paid by check the employer shall provide reasonably accessible facilities for the cashing thereof at par without expense to the employee. Employers shall also provide such identification as necessary to utilize such facilities.

SECTION 3. No member of this Division or his agent shall accept rebates directly or indirectly on such wages, or give anything of value or extend favors to any person for the purpose of influencing rates of wages or the working conditions of his employees.

SECTION 4. Any member of this Division shall be subject to the applicable maximum hourly limitations provided in this Code in the performance by him of manual labor or mechanical occupations customarily performed by an employee.

SECTION 5. No member of this Division shall directly or indirectly sublet to any employee or laborer, the labor services required by any contract secured by such member.

In no case shall a member of this Division avoid or evade the labor provisions of this Chapter by contracting his work to any person or persons subject to labor provisions less stringent than those provided in this Chapter.

SECTION 6. No employee now employed at rates in excess of the minimum shall be discharged and reemployed at a lower rate for the purpose of evading the provisions of this Code.

SECTION 7. *Safety Provisions.*—Employers shall make reasonable provisions for the safety of their workmen, at the place and during the hours of their employment, and shall comply with all national, state, or local laws or ordinances referring to safety measures in so far as the same may apply to their work. Standards for safety and health shall be submitted by the Divisional Code Authority to the Administrator within sixty (60) days after the effective date of this Code.

SECTION 8. Copies of Chapter I and of this Chapter of this Code shall be kept posted by all employers in conspicuous places in their shops and other established places of business which are readily accessible to all of their employees.

### ARTICLE III—ADMINISTRATION

SECTION 1. *Administrative Agency.*—A Divisional Code Authority is hereby constituted to administer this Code within this Division which shall consist of eleven (11) individuals, or such other number as may be approved from time to time by the Administrator. The members thereof are to be elected by the members of this Division pursuant to a method of election approved by the Administrator. In the election of the Divisional Code Authority due consideration shall be given to representation in respect of geographical location and in respect of the various branches of this Division. Members of the Divisional Code Authority shall serve for terms of one year from the date of the election, or until their successors have been elected.



SECTION 2. If the Administrator shall at any time determine that any action of the Divisional Authority or any agency thereof may be or is unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by the Divisional Code Authority or agency pending final action which shall not be effective unless the Administrator approves or unless he shall fail to disapprove after thirty (30) days' notice to him of intention to proceed with such action in its original or modified form.

SECTION 3. The Divisional Code Authority, subject to such rules and regulations as may be issued by the Administrator, shall have such powers and duties as are conferred by subdivision B of Article IV of Chapter I of this Code, and shall have the following powers and duties also subject to said rules and regulations:

(a) To use such trade associations or other agencies as it deems proper for the performing of any of its activities provided for herein, provided that nothing herein shall relieve the Divisional Code Authority of its duties or responsibilities under this Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(b) To make recommendations to the Administrator for the coordination of the administration of this Code with such other codes, if any, as may be related to this Division.

(c) To cause to be formulated an accounting system and methods of cost finding and estimating capable of use by all members of this Division. After such system and methods have been formulated by the Divisional Code Authority, and approved by the Administrator full details and instructions concerning them shall be made available to all members. Thereafter all members shall determine or estimate costs in accordance with the principles of such methods.

(d) To appoint a Trade Practice Committee which shall meet with the Trade Practice Committees appointed under such other codes as may be related to this Division for the purpose of formulating fair trade practices to govern the relationships between employers under this Code and under such other codes to the end that such fair trade practices may be proposed to the Administrator as amendments to this Code and such other codes.

SECTION 4. It being found necessary, in order to support the administration of this Code and to maintain the standards of fair competition established by this Code and to effectuate the policy of the Act, the Divisional Code Authority is authorized, subject to the approval of the Administrator:

(a) To incur such reasonable obligations as are necessary and proper for the foregoing purposes and to meet such obligations out of funds which may be raised as hereinafter provided and which shall be held in trust for the purposes of the Code;

(b) To submit to the Administrator for his approval, subject to such notice and opportunity to be heard as he may deem necessary, (1) an itemized budget of its estimated expenses for the foregoing purposes, and (2) an equitable basis upon which the funds necessary to support such budget shall be contributed by members of this Division;

(c) After such budget and basis of contribution have been approved by the Administrator, to determine and secure equitable contribution as above set forth by all such members of this Division, and to that end, if necessary, to institute legal proceedings therefor in its own name.

SECTION 5. It shall be provided in the By-laws of the Divisional Code Authority, or any agency thereof, that five (5) days' notice of any meeting shall be given to any member; such notice shall also be given to the Administrative members of the Construction Code Authority.

#### ARTICLE IV—FAIR TRADE PRACTICE REGULATIONS

SECTION 1. The applicants for the approval of this Chapter recommend that a contractor should have the following qualifications:

(a) Be generally qualified by his technical training, or experience in the industry to direct properly the application, installation, erection, or repairing of roofing, waterproofing, or sheet metal work as required in the construction industry.

(b) Be an employer of roofers or sheet metal workers, and protect his employees by compensation insurance and the public by public liability and property damage insurance.

(c) Have an established place of business, have the necessary tools and equipment required in the performance in which he specializes, and maintain an adequate set of books and records.

SECTION 2. (a) The Standard Form of Contract Documents of the American Institute of Architects is recommended to be the basis to be used for all contracts, provided that the same are approved by the Administrator.

(b) When methods of doing sheet metal work are not clearly shown on drawings or defined in specifications prepared by architects it is recommended that methods shown in "Standard Practice in Sheet Metal Work", published by the National Association of Sheet Metal Contractors of the United States, Inc., be used; for slate roofs, methods shown in "Slate Roofs", published by the National Slate Association; for composition or built-up roofs, the specifications approved by the United Roofing Contractors Association of North America; and any other standards of practice as may be approved by the Divisional Code Authority. Such forms, methods or documents are recommended only when approved by the Administrator.

(c) Members of this Division in any area or in any branch of this Division may adopt and maintain uniform fair and equitable sales and trade regulations providing such regulations and the method of adopting the same have been approved by the Divisional Code Authority and the Administrator.

The following are unfair trade practices, and are prohibited:

SECTION 3. No member of this Division shall submit an estimate price on any job without retaining a record thereof, or submit a bill for his service without retaining an actual and correct cost record thereof.

SECTION 4. No member of this Division shall sell or offer to sell materials or render services below estimated cost.

SECTION 5. Until such time as a uniform system of accounting and of cost finding and estimating shall have been determined and

shall have been approved by the Administrator, as provided in Article III Section 3 of Paragraph (c) hereof, in which event said system shall be the means of determining estimated cost, estimated cost shall be the sum of the following items of expected cost for the job in question:

1. Materials
2. Labor
3. Job expense, which shall include:
  - (a) Drafting
  - (b) Delivery of materials
  - (c) Transportation for employees, if any
  - (d) Hotel expense for employees, if any
  - (e) Municipal permits, inspection fees, if any
  - (f) Public Liability and compensation insurance
  - (g) Code Authorities' fees chargeable to job.
4. Overhead expense, excluding items of depreciation on unused facilities, interest on indebtedness, interest on investment or selling expense. (Estimating cost shall not be considered as selling expense for the purpose of this paragraph 4.)

In determining cost as above provided, any contractor who works with tools on any job shall charge his time so occupied on such job at not less than the rate prevailing on such job for employees performing similar work, or, if there be no employees on such job, at not less than the local prevailing rate for employees performing similar work.

SECTION 6. No member of this Division shall use or substitute materials inferior in quality to those specified by the purchaser without the consent of the purchaser.

SECTION 7. No member of this Division shall use methods of fabricating, applying, or erecting work not in accord with the applicable governmental laws, rules, regulations, or building codes in force in the territory affected.

SECTION 8. No member of this Division shall wilfully induce or attempt to induce the breach of contract between a competitor and his customer.

SECTION 9. No member of this Division shall make, cause or permit to be made or published, any statements concerning the business policies, credit standing, ability to perform work, or labor conditions of a competitor, which are false or inaccurate in any material particular.

SECTION 10. No member of this Division shall give, permit to be given, or directly offer to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent or representative of another in relation to the business of the employer of such employee, the principal of such agent or the represented party, without the knowledge of such employer, principal or party. Commercial bribery provisions shall not be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as hereinabove defined.

SECTION 11. No member of this Division shall place blanket orders or future delivery contracts for the same material for a specific job for which he has the contract, with more than one concern when

the total so ordered is in excess of the material required or estimated to be required for such job, whichever shall be the greater. Future delivery orders or contracts for specific jobs shall contain sufficient information to identify definitely the job for which the orders are placed.

SECTION 12. No member of this Division shall accept or give securities, bonds, mortgages, stocks, promissory notes, or other personal or real property as whole or part payment for work or material, at other than the fair market value thereof, to be determined in doubtful cases by independent and competent appraisal.

SECTION 13. No member of this Division shall enter into a contract which provides for the leaving of any portion of the monies due under the contract as security during the guarantee period, or any portion of that period.

SECTION 14. No member of this Division individually or with anyone else shall directly or indirectly:

(a) Except for warranties implied in law, guarantee or issue a maintenance agreement, or bond of any form whatsoever on any work described in Section 1 of Article I of this Chapter for a period of more than two (2) years from the date of the completion of the work, or assume in any guarantee, maintenance agreement, bond, or otherwise, responsibility for damage to any structure or to the contents of any structure upon which any such work has been done.

(b) Join with any concern, individual, corporation, or firm engaged in manufacturing, as principal or surety on any bond, guarantee, maintenance agreement, or otherwise jointly guaranteeing the effectiveness of the work contracted for.

SECTION 15. Members of this Division when they install warm air furnace heating systems and when they make repairs or alterations thereto shall wherever feasible do so in accordance with the Standard Code regulating the installation of Gravity Warm Air Heating Systems issued by the National Warm Air Heating and Air Conditioning Association except where otherwise required by law provided such Standard Code has been approved by the Administrator. Such Standard Code may be obtainable through the Divisional Code Authority.

SECTION 16. *Bidding Practices.*—(a) No member of this Division shall be a party to the unfair practice of “bid shopping” or “bid peddling” as defined in Chapter I of this Code.

(b) No member of this Division shall submit a competitive bid as defined in Section 1 of Article VII of Chapter I of this Code, to an owner or any other person corresponding to an awarding authority as therein defined, unless such owner or other person agrees to comply with the regulations provided therein governing an awarding authority.

(c) A member of this Division submitting, pursuant to the terms of bidding, a combination bid involving work within this Division and work within other division or divisions of this Industry, shall state in his proposal the price for the work within this Division.

A member of this Division submitting, pursuant to the terms of bidding, a lump sum bid involving work covered by different branches of this Division, shall not be required to itemize the differ-

ent branches of the work beyond that called for on his invitation to bid except as otherwise required in this Code.

(d) No member of this Division shall accept contracts on a "fixed fee" or "cost plus" basis, with an upset price protecting the owner against higher costs but not protecting the contractor against losses.

(e) Regional or local administrative committees created hereunder desiring to install a method of checking competitive bids shall use either the depository or other method provided by the Divisional Code Authority and approved by the Construction Code Authority, pursuant to Article VII, Section 14 of Chapter I hereof.

(f) Upon notification that the contract has been awarded, or that the bids have been opened, the depository shall deliver all copies of bids for such work to the Local Administrative Committee having supervisory jurisdiction. Such Committee shall open all bids, tabulate same, and send copies of such tabulations, together with details of the contract award, to each bidder who shall pay to the Local Administrative Committee his equitable proportionate share of the cost of handling, tabulating, and distributing such information, but not over one dollar (\$1.00) for each bidder.

(g) Upon the request of a bidder, the Divisional Code Authority or a regional or local administrative committee appointed by it shall appoint a committee of review composed of not more than three (3) qualified bidders, who are not bidders on the job, which committee shall be empowered and directed to investigate any bid to determine whether any provisions of this Code have been violated in such bid. In the event such committee shall find any such violation, their findings therein, together with a summary of the facts upon which they are based shall be reported to the Local Administrative Committee or the Divisional Code Authority for such action as may be appropriate.

#### ARTICLE V—MODIFICATION

SECTION 1. *Amendments.*—Subject to the provisions of Section 2 (c) of Article IV, B, of Chapter I hereof the provisions of this Chapter except as to provisions required by the Act may be modified on the basis of experience or changes in circumstances, such modifications to be based upon application to the Administrator and such notice and hearing as he shall specify, and to become effective on his approval. Any such application may be made by the Divisional Code Authority.

#### ARTICLE VI—REGISTRATION OF MEMBERS OF THE DIVISION

Each member of this Division within thirty (30) days after the effective date of this Chapter, shall register with the Divisional Code Authority. All members of this Division who may engage in the Division thereafter shall likewise register with the Divisional Code Authority. Registration of a member of this Division shall include the full name and mailing address of the member. An application may be made by the Divisional Code Authority to the Administrator for an extension of the time limit for the registration by any member of this Division if it appears that the time limit as provided herein

might cause injustice or undue hardship to any member of this Division.

#### ARTICLE VII—REFERENCE TO PROVISIONS OF CHAPTER I

The provisions of Section 7 (a) and 10 (b) of the Act, which are set forth in Sections 1 and 6 respectively of Article VIII of Chapter I of this Code are specifically incorporated herein by reference with the same force and effect as if set forth herein in full; all other provisions of Chapter I of this Code, including any modifications or amendments thereto, except as herein provided, apply within this Division with the same force and effect as if set forth herein in full.

#### ARTICLE VIII—EFFECTIVE DATE

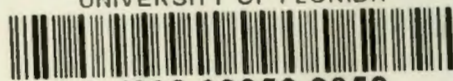
This Chapter shall become effective fifteen (15) days after its approval by the President.

Approved Code No. 244—Supplement No. 8.  
Registry No. 1616-98.

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