

By Representative Logan

1 A bill to be entitled
2 An act relating to tax administration; amending
3 s. 95.091, F.S.; revising time periods within
4 which the Department of Revenue and Department
5 of Business and Professional Regulation may
6 determine and assess the amount of any tax,
7 penalty, or interest due under taxes which they
8 have authority to administer; revising
9 provisions relating to tolling of such periods;
10 amending ss. 199.282, 201.17, and 212.12, F.S.;
11 revising the delinquency penalty for failure to
12 pay intangible personal property taxes,
13 documentary stamp taxes, and sales taxes;
14 amending s. 220.211, F.S.; revising the penalty
15 for filing an incomplete corporate income tax
16 return and the application of such penalty;
17 creating s. 213.235, F.S.; providing for
18 determination of the annual rate of interest
19 applicable to tax payment deficiencies;
20 creating s. 213.255, F.S.; providing for
21 payment of interest on overpayments of taxes,
22 payment of taxes not due, or taxes paid in
23 error with respect to taxes administered by the
24 Department of Revenue if refund is not made
25 within a specified period; providing
26 requirements for refund applications; requiring
27 a bond or other security under certain
28 conditions; specifying funds from which such
29 interest shall be paid; amending s. 215.26,
30 F.S.; revising the time period within which
31 application for refund of taxes must be made;

1 amending s. 194.192, F.S., relating to the rate
2 of interest in judgments against taxpayers for
3 deficient property taxes, ss. 197.172 and
4 197.402, F.S., relating to the rate of interest
5 on delinquent real and personal property taxes,
6 s. 193.1145, F.S., relating to the rate of
7 interest on delinquent provisional property
8 taxes, ss. 198.15 and 198.18, F.S., relating to
9 the rate of interest on delinquent estate taxes
10 and taxes for which an extension is granted, s.
11 198.155, F.S., relating to the rate of interest
12 on delinquent tax on generation-skipping
13 transfers, s. 198.16, F.S., relating to the
14 rate of interest on deficiencies in such taxes,
15 s. 199.282, F.S., relating to the rate of
16 interest on delinquent intangible personal
17 property taxes, s. 201.17, F.S., relating to
18 the rate of interest on delinquent excise taxes
19 on documents, and s. 203.06, F.S., relating to
20 the rate of interest on delinquent gross
21 receipts taxes, to conform; reenacting s.
22 203.62, F.S., relating to the gross receipts
23 tax on interstate and international
24 telecommunications services, to incorporate the
25 amendment to s. 203.06, F.S., in a reference
26 thereto; amending s. 206.44, F.S., relating to
27 the rate of interest on delinquent motor fuel
28 taxes, to conform; reenacting ss. 206.06(1),
29 206.94, 206.97, 206.9915(3), 336.021(2)(a), and
30 336.025(2)(a), F.S., relating to estimated fuel
31 taxes, tax on diesel fuel, tax on fuel and

1 other pollutants, the ninth-cent fuel tax on
2 motor and diesel fuel, and the local option tax
3 on motor and diesel fuel for county
4 transportation systems, to incorporate the
5 amendment to s. 206.44, F.S., in references
6 thereto; amending s. 207.007, F.S., relating to
7 the rate of interest on delinquent tax on the
8 operation of commercial motor vehicles, ss.
9 211.076 and 211.33, F.S., relating to the rate
10 of interest on delinquent taxes and
11 underpayment of estimated taxes on oil and gas
12 production and severance of minerals, and s.
13 212.12, F.S., relating to the rate of interest
14 on delinquent taxes on sales, use, and other
15 transactions, to conform; reenacting ss.
16 193.501(6)(e), 193.503(9)(b), and 193.505(8),
17 F.S., relating to the interest on a deferred
18 tax liability due upon a change in assessment
19 status of certain conservation or recreation
20 land or historic properties, and s.
21 196.1997(7), F.S., relating to the interest on
22 taxes which become due when property is no
23 longer eligible for a historic property tax
24 exemption, to incorporate the amendment to s.
25 212.12, F.S., in references thereto; amending
26 s. 220.807, F.S., relating to the interest rate
27 applicable to the corporate income tax code,
28 and s. 624.5092, F.S., relating to the rate of
29 interest on delinquent insurance premium taxes,
30 to conform; providing an effective date.
31

1 Be It Enacted by the Legislature of the State of Florida:

2

3 Section 1. Subsections (3) and (4) of section 95.091,
4 Florida Statutes, are amended to read:

5 95.091 Limitation on actions to collect taxes.--

6 (3)(a)1. With the exception of taxes levied under
7 chapter 198 and tax adjustments made pursuant to s. 220.23,
8 the Department of Revenue may determine and assess the amount
9 of any tax, penalty, or interest due under any tax enumerated
10 in s. 72.011 which it has authority to administer and the
11 Department of Business and Professional Regulation may
12 determine and assess the amount of any tax, penalty, or
13 interest due under any tax enumerated in s. 72.011 which it
14 has authority to administer:

15 a. For taxes due before July 1, 1999, within 5 years
16 after the date the tax is due, any return with respect to the
17 tax is due, or such return is filed, whichever occurs later;
18 and for taxes due on or after July 1, 1999, within 3 years
19 after the date the tax is due, any return with respect to the
20 tax is due, or such return is filed, whichever occurs later;

21 b. For taxes due before July 1, 1999, within 6 years
22 after the date the taxpayer either makes a substantial
23 underpayment of tax, or files a substantially incorrect
24 return;

25 c. At any time while the right to a refund or credit
26 of the tax is available to the taxpayer;

27 d. For taxes due before July 1, 1999, at any time
28 after the taxpayer has filed a grossly false return;

29 ~~e.d.~~ At any time after the taxpayer has failed to make
30 any required payment of the tax, has failed to file a required
31 return, or has filed a ~~grossly false or~~ fraudulent return,

1 except that for taxes due on or after July 1, 1999, the
2 limitation prescribed in sub-subparagraph a. applies if the
3 taxpayer has disclosed in writing the tax liability to the
4 department before the department has contacted the taxpayer;

5 or

6 f.e. In any case in which there has been a refund of
7 tax erroneously made for any reason:

8 (I) For refunds made before July 1, 1999, within 5
9 years after making such refund; and

10 (II) For refunds made on or after July 1, 1999, within
11 3 years after making such refund,

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13 or at any time after making such refund if it appears that any
14 part of the refund was induced by fraud or the
15 misrepresentation of a material fact.

16 2. For the purpose of this paragraph, a tax return
17 filed before the last day prescribed by law, including any
18 extension thereof, shall be deemed to have been filed on such
19 last day, and payments made prior to the last day prescribed
20 by law shall be deemed to have been paid on such last day.

21 (b)1. The limitations in this subsection shall be
22 tolled for a period of 2 years with respect to audits in which
23 the notice of intent to conduct the audit was issued before
24 July 1, 1999, if the Department of Revenue has issued a notice
25 of intent to conduct an audit or investigation of the
26 taxpayer's account within the applicable period of time as
27 specified in this subsection. The department shall commence
28 an audit within 120 days after it issues a notice of intent to
29 conduct an audit, unless the taxpayer requests a delay. If
30 the taxpayer does not request a delay and the department does

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1 not begin the audit within 120 days after issuing the notice,
2 the tolling period shall terminate.

3 2. For audits in which the notice of intent to conduct
4 the audit was issued on or after July 1, 1999, the limitation
5 period shall be tolled for 1 year after issuing the notice. If
6 the taxpayer does not enter into an agreement to extend the
7 period pursuant to s. 213.23, the tolling period shall
8 terminate after 1 year.

9 (4) If administrative or judicial proceedings for
10 review of the tax assessment or collection are initiated by a
11 taxpayer begun within the a period of limitation prescribed in
12 this section, the running of the period shall be tolled during
13 the pendency of the proceeding. Administrative proceedings
14 shall include taxpayer protest proceedings initiated under s.
15 213.21 and department rules.

16 Section 2. Subsections (2) and (3) of section 199.282,
17 Florida Statutes, 1998 Supplement, are amended to read:

18 199.282 Penalties for violation of this chapter.--

19 (2) If any annual or nonrecurring tax is not paid by
20 the statutory due date, then despite any extension granted
21 under s. 199.232(6), interest shall run on the unpaid balance
22 from such due date until paid at the adjusted rate established
23 pursuant to s. 213.235 of 12 percent per year.

24 (3)(a) If any annual or nonrecurring tax is not paid
25 by the due date, a delinquency penalty shall be charged. The
26 delinquency penalty shall be 5 ~~10~~ percent of the delinquent
27 tax for each calendar month or portion thereof from the due
28 date until paid, up to a limit of 25 ~~50~~ percent of the total
29 tax not timely paid.

30 (b) If any annual tax return required by this chapter
31 is not filed by the due date, a penalty of 10 percent of the

1 tax due with the return shall be charged for each calendar
2 month or portion thereof during which the return remains
3 unfiled, up to a limit of 50 percent of the total tax due.

4
5 For any penalty assessed under this subsection, the combined
6 total for all penalties assessed under paragraphs (a) and (b)
7 shall not exceed 10 percent per calendar month, up to a limit
8 of 50 percent of the total tax due.

9 Section 3. Subsection (2) of section 201.17, Florida
10 Statutes, is amended to read:

11 201.17 Penalties for failure to pay tax required.--

12 (2) If any document, instrument, or paper upon which
13 the tax under this chapter is imposed, upon audit or at time
14 of recordation, does not show the proper amount of tax paid,
15 or if the tax imposed by this chapter on any document,
16 instrument, or paper is not timely reported and paid as
17 required by s. 201.133, the person or persons liable for the
18 tax upon the document, instrument, or paper shall be subject
19 to:

20 (a) Payment of the tax not paid.

21 (b) A specific penalty added to the tax in the amount
22 of 5 ~~10~~ percent per month or part of a month of any unpaid tax
23 ~~if the failure is for not more than 30 days, with an~~
24 ~~additional 10 percent of any unpaid tax for each additional 30~~
25 ~~days, or fraction thereof, during the time which the failure~~
26 continues, not to exceed a total penalty of 25 ~~50~~ percent, in
27 the aggregate, of any unpaid tax. In no event shall the
28 penalty be less than \$10 for failure to timely file a tax
29 return required. If it is determined by clear and convincing
30 evidence that any part of a deficiency is due to fraud, there
31 shall be added to the tax as a civil penalty, in lieu of the

1 aforementioned penalty under this paragraph, an amount equal
2 to 200 percent of the deficiency. These penalties are to be
3 in addition to, and not in lieu of, any other penalties
4 imposed by law.

5 (c) Payment of interest to the Department of Revenue,
6 accruing from the date the tax is due until paid, at the
7 adjusted rate established pursuant to s. 213.235 ~~of 1 percent~~
8 ~~per month~~, based on the amount of tax not paid.

9 Section 4. Paragraph (a) of subsection (2) and
10 subsection (3) of section 212.12, Florida Statutes, 1998
11 Supplement, are amended to read:

12 212.12 Dealer's credit for collecting tax; penalties
13 for noncompliance; powers of Department of Revenue in dealing
14 with delinquents; brackets applicable to taxable transactions;
15 records required.--

16 (2)(a) When any person, firm, or corporation required
17 hereunder to make any return or to pay any tax or fee imposed
18 by this chapter fails to timely file such return or fails to
19 pay the tax or fee due within the time required hereunder, in
20 addition to all other penalties provided herein and by the
21 laws of this state in respect to such taxes or fees, a
22 specific penalty shall be added to the tax or fee in the
23 amount of 5 ~~10~~ percent per month or part of a month of any
24 unpaid tax or fee ~~if the failure is for not more than 30 days,~~
25 ~~with an additional 10 percent of any unpaid tax or fee for~~
26 ~~each additional 30 days, or fraction thereof, during the time~~
27 which the failure continues, not to exceed a total penalty of
28 25 ~~50~~ percent, in the aggregate, of any unpaid tax or fee. In
29 no event may the penalty be less than \$10 for failure to
30 timely file a tax return required by s. 212.11(1)(b) or \$5 for
31 failure to timely file a tax return authorized by s.

1 212.11(1)(c) or (d). In the case of a false or fraudulent
2 return or a willful intent to evade payment of any tax or fee
3 imposed under this chapter, in addition to the other penalties
4 provided by law, the person making such false or fraudulent
5 return or willfully attempting to evade the payment of such a
6 tax or fee shall be liable for a specific penalty of 100
7 percent of the tax bill or fee and for fine and punishment as
8 provided by law for a conviction of a misdemeanor of the first
9 degree.

10 (3) When any dealer, or other person charged herein,
11 fails to remit the tax, or any portion thereof, on or before
12 the day when such tax is required by law to be paid, there
13 shall be added to the amount due interest on ~~at the rate of 1~~
14 ~~percent per month~~ of the amount due from the date due until
15 paid at the adjusted rate established pursuant to s. 213.235.
16 Interest on the delinquent tax shall be calculated beginning
17 on the 21st day of the month following the month for which the
18 tax is due, except as otherwise provided in this chapter.

19 Section 5. For the purpose of incorporating the
20 amendment to section 212.12, Florida Statutes, 1998
21 Supplement, in a reference thereto, paragraph (e) of
22 subsection (6) of section 193.501, Florida Statutes, is
23 reenacted to read:

24 193.501 Assessment of lands subject to a conservation
25 easement, environmentally endangered lands, or lands used for
26 outdoor recreational or park purposes when land development
27 rights have been conveyed or conservation restrictions have
28 been covenanted.--

29 (6) The following terms whenever used as referred to
30 in this section have the following meanings unless a different
31 meaning is clearly indicated by the context:

1 (e) "Deferred tax liability" means an amount equal to
2 the difference between the total amount of taxes that would
3 have been due in March in each of the previous years in which
4 the conveyance or covenant was in effect if the property had
5 been assessed under the provisions of s. 193.011 and the total
6 amount of taxes actually paid in those years when the property
7 was assessed under the provisions of this section, plus
8 interest on that difference computed as provided in s.
9 212.12(3).

10 Section 6. For the purpose of incorporating the
11 amendment to section 212.12, Florida Statutes, 1998
12 Supplement, in a reference thereto, paragraph (b) of
13 subsection (9) of section 193.503, Florida Statutes, is
14 reenacted to read:

15 193.503 Classification and assessment of historic
16 property used for commercial or certain nonprofit purposes.--

17 (9)

18 (b) For purposes of this subsection, "deferred tax
19 liability" means an amount equal to the difference between the
20 total amount of taxes that would have been due in March if the
21 property had been assessed under the provisions of s. 193.011
22 and the total amount of taxes actually paid in those years
23 when the property was assessed under the provisions of this
24 section, plus interest on that difference computed as provided
25 in s. 212.12(3).

26 Section 7. For the purpose of incorporating the
27 amendment to section 212.12, Florida Statutes, 1998
28 Supplement, in a reference thereto, subsection (8) of section
29 193.505, Florida Statutes, is reenacted to read:

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1 193.505 Assessment of historically significant
2 property when development rights have been conveyed or
3 historic preservation restrictions have been covenanted.--

4 (8) For the purposes of this section, the term
5 "deferred tax liability" means an amount equal to the
6 difference between the total amount of taxes which would have
7 been due in March in each of the previous years in which a
8 covenant executed and accepted pursuant to this section was in
9 effect if the property had been assessed under the provisions
10 of s. 193.011 irrespective of any negative impact on fair
11 market value that restrictions imposed pursuant to this
12 section may have caused and the total amount of taxes actually
13 paid in those years, plus interest on that difference computed
14 as provided in s. 212.12(3).

15 Section 8. For the purpose of incorporating the
16 amendment to section 212.12, Florida Statutes, 1998
17 Supplement, in a reference thereto, subsection (7) of section
18 196.1997, Florida Statutes, is reenacted to read:

19 196.1997 Ad valorem tax exemptions for historic
20 properties.--

21 (7) To qualify for an exemption, the property owner
22 must enter into a covenant or agreement with the governing
23 body for the term for which the exemption is granted. The
24 form of the covenant or agreement must be established by the
25 Department of State and must require that the character of the
26 property, and the qualifying improvements to the property, be
27 maintained during the period that the exemption is granted.
28 The covenant or agreement shall be binding on the current
29 property owner, transferees, and their heirs, successors, or
30 assigns. Violation of the covenant or agreement results in
31 the property owner being subject to the payment of the

1 differences between the total amount of taxes which would have
2 been due in March in each of the previous years in which the
3 covenant or agreement was in effect had the property not
4 received the exemption and the total amount of taxes actually
5 paid in those years, plus interest on the difference
6 calculated as provided in s. 212.12(3).

7 Section 9. Section 220.211, Florida Statutes, is
8 amended to read:

9 220.211 Penalties; incomplete return.--

10 (1) ~~If in the case where~~ an incomplete return is made,
11 ~~unless notwithstanding that~~ no tax is finally determined to be
12 due for the taxable year, there shall be added to the amount
13 of tax, penalty, and interest otherwise due a penalty in the
14 amount of 5 percent per month, not exceeding an aggregate of
15 ~~\$300 or 10 percent,~~ of the tax finally determined to be due,
16 ~~whichever is greater;~~ however, such a penalty shall not exceed
17 \$10,000, and the taxpayer is exempt from this penalty if a
18 penalty is imposed on him or her under s. 220.801 with respect
19 to the same return. The department may settle or compromise
20 such penalties pursuant to s. 213.21.

21 (2) An "incomplete return" is, for the purposes of
22 this code, a return that lacks ~~which is lacking~~ such
23 uniformity, completeness, and arrangement to the extent that
24 physical handling, verification, or review of the return may
25 not be readily accomplished.

26 Section 10. Section 213.235, Florida Statutes, is
27 created to read:

28 213.235 Determination of interest on deficiencies.--

29 (1) Notwithstanding any other provision of law, the
30 annual rate of interest applicable to tax payment deficiencies
31 that arise on or after July 1, 1999, shall be the adjusted

1 rate established by the executive director of the department
2 under subsection (2), unless a lower rate for the particular
3 tax is specifically provided for in law, in which case the
4 lower rate applies. This annual rate of interest applies to
5 all taxes enumerated in s. 213.05.

6 (2) If the adjusted prime rate charged by banks,
7 rounded to the nearest full percent, during either:

8 (a) The 6-month period ending on September 30 of any
9 calendar year; or

10 (b) The 6-month period ending on March 31 of any
11 calendar year,

12
13 differs from the interest rate in effect on such date, the
14 executive director of the department shall, within 20 days,
15 establish an adjusted rate of interest equal to such adjusted
16 prime rate.

17 (3) An adjusted rate of interest established under
18 this section becomes effective:

19 (a) On January 1 of the succeeding year, if based upon
20 the adjusted prime rate for the 6-month period ending on
21 September 30; or

22 (b) On July 1 of the same calendar year, if based upon
23 the adjusted prime rate for the 6-month period ending on March
24 31.

25 (4) For the purposes of this section, "adjusted prime
26 rate charged by banks" means the average predominant prime
27 rate quoted by commercial banks to large businesses, as
28 determined by the Board of Governors of the Federal Reserve
29 System.

30 (5) Once established, an adjusted rate of interest
31 remains in effect until further adjusted under subsection (2).

1 Section 11. Section 213.255, Florida Statutes, is
2 created to read:

3 213.255 Interest.--Interest shall be paid on
4 overpayments of taxes, payment of taxes not due, or taxes paid
5 in error, subject to the following conditions:

6 (1) A refund application must be filed with the
7 department within the time specified by s. 215.26.

8 (2) A refund application shall not be processed until
9 it is complete. A refund application is complete if it is
10 filed on a permitted form and:

11 (a) Contains the taxpayer's name, address, identifying
12 numbers, and signature.

13 (b) Provides sufficient information, whether on the
14 application or attachments, to permit mathematical
15 verification of the amount of the refund.

16 (c) Specifies the amount claimed, the specific grounds
17 upon which the refund is claimed, and the taxable years or
18 periods involved.

19 (d) Includes a completed audit, if an audit is
20 required by the department.

21 (3) If the refund application is not complete, the
22 department shall notify the taxpayer of the inadequacy and
23 instruct the applicant regarding what is needed to complete
24 the application.

25 (4) Interest shall not begin to accrue until 90 days
26 after a complete refund application has been filed and the
27 amount of overpayment has not been refunded to the taxpayer or
28 applied as a credit to the taxpayer's account. If the
29 department and the taxpayer mutually agree that an audit of
30 the claim is necessary, interest shall not begin to accrue
31 until the audit of the claim is final or until 90 days after

1 the date the complete refund application has been filed,
2 whichever is later.

3 (5) If a tax is adjudicated unconstitutional and
4 refunds are ordered by the court, interest shall not commence
5 on complete applications until 90 days after the adjudication
6 becomes final and unappealable or 90 days after a complete
7 application has been filed, whichever is later.

8 (6) Interest shall be paid until a date determined by
9 the department which shall be no earlier than 7 days prior to
10 the date of the issuance of the refund warrant by the
11 Comptroller.

12 (7) Interest shall not be paid if the department has
13 reasonable cause to believe that it could not recover the
14 amount of any refund paid in error from the person claiming
15 the refund, unless such person files a cash bond or a surety
16 bond in the amount of the refund claimed or such person makes
17 other security arrangements satisfactory to the department.
18 The cash or surety bond shall be endorsed by a surety company
19 authorized to do business in this state and shall be
20 conditioned upon payment in full of the amount of any refund
21 paid in error for any reason. The department shall give
22 written notice of its determination that a cash or surety bond
23 is required, in which case interest shall not commence until
24 the person filing the claim satisfies this requirement.

25 (8) The rate of interest shall be the adjusted rate
26 established under s. 213.235. This annual rate of interest
27 shall be applied to all refunds of taxes administered by the
28 department.

29 (9) Interest that is paid pursuant to this section
30 shall be proportionately paid from the funds or sources into
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1 which the tax that is refunded was or should have been
2 disbursed or distributed after the tax was collected.

3 (10) This section applies to eligible refunds based on
4 tax payments made on or after July 1, 1999.

5 Section 12. Subsection (2) of section 215.26, Florida
6 Statutes, is amended to read:

7 215.26 Repayment of funds paid into State Treasury
8 through error.--

9 (2) Application for refunds as provided by this
10 section must be filed with the Comptroller, except as
11 otherwise provided in this subsection, within 3 years after
12 the right to the refund has accrued or else the right is
13 barred. Except as provided in chapter 198 and s. 220.23, an
14 application for a refund of a tax enumerated in s. 72.011,
15 which tax was paid after September 30, 1994, and before July
16 1, 1999, must be filed with the Comptroller within 5 years
17 after the date the tax is paid, and within 3 years after the
18 date the tax is paid for tax paid on or after July 1, 1999.

19 The Comptroller may delegate the authority to accept an
20 application for refund to any state agency, or the judicial
21 branch, vested by law with the responsibility for the
22 collection of any tax, license, or account due. The
23 application for refund must be on a form approved by the
24 Comptroller and must be supplemented with additional proof the
25 Comptroller deems necessary to establish the claim; provided,
26 the claim is not otherwise barred under the laws of this
27 state. Upon receipt of an application for refund, the judicial
28 branch or the state agency to which the funds were paid shall
29 make a determination of the amount due. If an application for
30 refund is denied, in whole or in part, the judicial branch or
31 such state agency shall notify the applicant stating the

1 reasons therefor. Upon approval of an application for refund,
2 the judicial branch or such state agency shall furnish the
3 Comptroller with a properly executed voucher authorizing
4 payment.

5 Section 13. Subsection (2) of section 194.192, Florida
6 Statutes, is amended to read:

7 194.192 Costs; interest on unpaid taxes; penalty.--

8 (2) If the court finds that the amount of tax owed by
9 the taxpayer is greater than the amount the taxpayer has in
10 good faith admitted and paid, it shall enter judgment against
11 the taxpayer for the deficiency and for interest on the
12 deficiency at the adjusted rate established pursuant to s.
13 213.235 of 12 percent per year from the date the tax became
14 delinquent. If it finds that the amount of tax which the
15 taxpayer has admitted to be owing is grossly disproportionate
16 to the amount of tax found to be due and that the taxpayer's
17 admission was not made in good faith, the court shall also
18 assess a penalty at the rate of 10 percent of the deficiency
19 per year from the date the tax became delinquent.

20 Section 14. Subsections (1) and (3) of section
21 197.172, Florida Statutes, are amended to read:

22 197.172 Interest rate; calculation and minimum.--

23 (1) Real property taxes shall bear interest at the
24 adjusted rate established pursuant to s. 213.235 of 18 percent
25 per year from the date of delinquency until a certificate is
26 sold, except that the minimum charge for delinquent taxes paid
27 prior to the sale of a tax certificate shall be 3 percent.

28 (3) Personal property taxes shall bear interest at the
29 adjusted rate established pursuant to s. 213.235 of 18 percent
30 per year from the date of delinquency until paid or barred
31 under chapter 95.

1 Section 15. Subsections (2) and (3) of section
2 197.402, Florida Statutes, are amended to read:

3 197.402 Advertisement of real or personal property
4 with delinquent taxes.--

5 (2) Within 45 days after the personal property taxes
6 become delinquent, the tax collector shall advertise a list of
7 the names of delinquent personal property taxpayers and the
8 amount of tax due by each. The advertisement shall include a
9 notice that all personal property taxes are drawing interest
10 at the adjusted rate established pursuant to s. 213.235 ~~of 18~~
11 ~~percent per year~~ and that, unless the delinquent taxes are
12 paid, warrants will be issued thereon pursuant to s. 197.413
13 and the tax collector will apply to the circuit court for an
14 order directing levy upon and seizure of the personal property
15 of the taxpayer for the unpaid taxes.

16 (3) Except as provided in s. 197.432(4), on or before
17 June 1 or the 60th day after the date of delinquency,
18 whichever is later, the tax collector shall advertise once
19 each week for 3 weeks and shall sell tax certificates on all
20 real property with delinquent taxes. The tax collector shall
21 make a list of such properties in the same order in which the
22 lands were assessed, specifying the amount due on each parcel,
23 including interest at the adjusted rate established pursuant
24 to s. 213.235 ~~of 18 percent per year~~ from the date of
25 delinquency to the date of sale; the cost of advertising; and
26 the expense of sale.

27 Section 16. Paragraph (a) of subsection (10) of
28 section 193.1145, Florida Statutes, is amended to read:

29 193.1145 Interim assessment rolls.--

30 (10)(a) Delinquent provisional taxes on real property
31 shall not be subject to the delinquent tax provisions of

1 chapter 197 until such time as the assessment roll is
2 reconciled, supplemental bills are issued, and taxes on the
3 property remain delinquent. However, delinquent provisional
4 taxes on real property shall accrue interest at an annual rate
5 ~~of 12 percent~~, computed in accordance with s. 197.172.
6 Interest accrued on provisional taxes shall be added to the
7 taxes, interest, costs, and charges due with respect to final
8 taxes levied. When interest begins to accrue on delinquent
9 provisional taxes, the property owner shall be given notice by
10 first-class mail.

11 (b) Delinquent provisional taxes on personal property
12 shall be subject to all applicable provisions of chapter 197.

13 Section 17. Subsection (1) of section 198.15, Florida
14 Statutes, is amended to read:

15 198.15 When tax due; extension; interest; penalty.--

16 (1) The tax imposed by this chapter is due and payable
17 on or before the last day prescribed by law for paying the
18 federal estate tax pursuant to the initial estate tax return
19 and shall be paid by the personal representative to the
20 department. The department shall extend the time for payment
21 of the tax or any part of the tax if the time for paying the
22 federal estate tax is extended, provided the personal
23 representative files with the department a copy of the
24 approved federal extension notice within 30 days after
25 receiving such notice. No extension shall be for more than 1
26 year, and the aggregate of extensions with respect to any
27 estate shall not exceed 10 years from the due date. In such
28 case, the amount in respect of which the extension is granted
29 shall be paid on or before the date of the expiration of the
30 period of the extension, unless a further extension is
31 granted. If the time for the payment is thus extended, there

1 shall be collected, as part of such amount, interest thereon
2 at the adjusted rate established pursuant to s. 213.235 ~~of 1~~
3 ~~percent per month of the amount due~~ from the due date of the
4 tax to the date the same is paid.

5 Section 18. Subsection (5) of section 198.155, Florida
6 Statutes, is amended to read:

7 198.155 Payment of tax on generation-skipping
8 transfers.--

9 (5) If the tax, or any portion thereof, is not paid
10 before it becomes delinquent, it shall bear interest from the
11 due date until paid at the adjusted rate established pursuant
12 to s. 213.235 ~~of 1 percent per month for each month or~~
13 ~~fraction thereof that it is delinquent.~~

14 Section 19. Subsection (3) of section 198.16, Florida
15 Statutes, is amended to read:

16 198.16 Notice of determination of deficiency in
17 federal tax to be filed with department.--

18 (3) If, based upon any deficiency and the ground
19 therefor, it shall appear that the amount of tax previously
20 paid is less than the amount of tax owing, the difference,
21 together with interest at the adjusted rate established
22 pursuant to s. 213.235 ~~of 1 percent per month~~ from the due
23 date of the tax, shall be paid upon notice and demand by the
24 department. In the event the personal representative or person
25 required to return and pay such tax shall fail to give the
26 notice required by this section, any additional tax which
27 shall be owing may be assessed, or a proceeding in court for
28 the collection of such tax may be begun without assessment at
29 any time prior to the filing of such notice or within 30 days
30 after the delinquent filing of such notice, notwithstanding
31 the provisions of s. 198.28.

1 Section 20. Subsection (2) of section 198.18, Florida
2 Statutes, is amended to read:

3 198.18 Failure to pay tax; penalties; delinquent or
4 deficient taxes, interest.--

5 (2) Any deficiency in tax or any tax payment not
6 received by the department on or before the due date as
7 provided in s. 198.15, in addition to any other penalties,
8 shall bear interest at the adjusted rate established pursuant
9 to s. 213.235 ~~of 1 percent per month of the amount due~~ from
10 the due date until paid. The department may settle or
11 compromise such interest pursuant to s. 213.21.

12 Section 21. Section 203.06, Florida Statutes, is
13 amended to read:

14 203.06 Interest on delinquent payments.--Any payments
15 as imposed in this chapter, if not received by the Department
16 of Revenue on or before the due date as provided by law, shall
17 include, as an additional part of such amount due, interest at
18 the adjusted rate established pursuant to s. 213.235 ~~of 1~~
19 ~~percent per month~~, accruing from the date due until paid.

20 Section 22. For the purpose of incorporating the
21 amendment to section 203.06, Florida Statutes, in a reference
22 thereto, section 203.62, Florida Statutes, is reenacted to
23 read:

24 203.62 Applicability of specified sections of part
25 I.--The provisions of ss. 203.01, 203.012, 203.013, 203.02,
26 203.03, 203.04, 203.06, and 203.07 shall be applicable to the
27 levy and collection of taxes imposed pursuant to this part as
28 if fully set out in this part.

29 Section 23. Subsection (2) of section 206.44, Florida
30 Statutes, is amended to read:

31

1 206.44 Penalty and interest for failure to report on
2 time; penalty and interest on tax deficiencies.--

3 (2) Any payment that is not received by the department
4 on or before the due date as provided in s. 206.43 shall bear
5 interest at the adjusted rate established pursuant to s.
6 213.235 of 1 percent per month, from the date due until paid.
7 Interest on any delinquent tax shall be calculated beginning
8 on the 21st day of the month for which the tax is due, except
9 as otherwise provided in this part.

10 Section 24. For the purpose of incorporating the
11 amendment to section 206.44, Florida Statutes, in a reference
12 thereto, subsection (1) of section 206.06, Florida Statutes,
13 is reenacted to read:

14 206.06 Estimate of amount of fuel taxes due and
15 unpaid.--

16 (1) Whenever any terminal supplier, importer,
17 exporter, or wholesaler neglects or refuses to make and file
18 any report for any calendar month, as required by the fuel tax
19 laws of this state, or files an incorrect or fraudulent
20 report, or is in default in the payment of any fuel taxes and
21 penalties thereon payable under the laws of this state, the
22 department shall, from any information it may be able to
23 obtain from its office or elsewhere, estimate the number of
24 gallons of motor fuel with respect to which the terminal
25 supplier, importer, exporter, or wholesaler has become liable
26 for taxes under the fuel tax laws of this state and the amount
27 of taxes due and payable thereon, to which sum shall be added
28 a penalty and interest as provided in s. 206.44.

29 Section 25. For the purpose of incorporating the
30 amendment to section 206.44, Florida Statutes, in a reference
31

1 thereto, section 206.94, Florida Statutes, is reenacted to
2 read:

3 206.94 Department may estimate diesel fuels sold or
4 used.--When any person neglects or refuses to file any report
5 as required by s. 206.91 or files an incorrect or fraudulent
6 report, the department shall determine, after investigation,
7 the number of gallons of diesel fuels with respect to which
8 the person has incurred liability under this part for any
9 particular period and fix the amount of taxes due and payable
10 thereon, to which taxes due shall be added the penalties and
11 interest imposed by s. 206.44 as a penalty for the default of
12 such person. The department may settle or compromise such
13 penalties pursuant to s. 213.21.

14 Section 26. For the purpose of incorporating the
15 amendment to section 206.44, Florida Statutes, in a reference
16 thereto, section 206.97, Florida Statutes, is reenacted to
17 read:

18 206.97 Applicability of specified sections of part
19 I.--The provisions of ss. 206.01, 206.02, 206.026, 206.027,
20 206.028, 206.04, 206.051, 206.052, 206.054, 206.055, 206.07,
21 206.075, 206.08, 206.09, 206.095, 206.10, 206.11, 206.12,
22 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18,
23 206.199, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22,
24 206.23, 206.24, 206.25, 206.27, 206.28, 206.41, 206.415,
25 206.416, 206.43, 206.435, 206.44, 206.48, 206.49, 206.56,
26 206.59, 206.606, 206.608, 206.61, and 206.62 of part I of this
27 chapter shall, as far as lawful or practicable, be applicable
28 to the tax herein levied and imposed and to the collection
29 thereof as if fully set out in this part. However, no
30 provision of any such section shall apply if it conflicts with
31 any provision of this part.

1 Section 27. For the purpose of incorporating the
2 amendment to section 206.44, Florida Statutes, in a reference
3 thereto, subsection (3) of section 206.9915, Florida Statutes,
4 is reenacted to read:

5 206.9915 Legislative intent and general provisions.--

6 (3) The provisions of ss. 206.01, 206.02, 206.026,
7 206.027, 206.028, 206.051, 206.052, 206.054, 206.055, 206.06,
8 206.07, 206.075, 206.08, 206.09, 206.095, 206.10, 206.11,
9 206.12, 206.13, 206.14, 206.15, 206.16, 206.17, 206.175,
10 206.18, 206.199, 206.20, 206.204, 206.205, 206.21, 206.215,
11 206.22, 206.24, 206.27, 206.28, 206.416, 206.42, 206.425,
12 206.44, 206.48, 206.49, 206.56, 206.59, 206.86, 206.87,
13 206.872, 206.873, 206.8735, 206.874, 206.8741, 206.8745,
14 206.94, 206.945, and 206.9815 shall, as far as lawful or
15 practicable, be applicable to the levy and collection of taxes
16 imposed pursuant to this part as if fully set out in this part
17 and made expressly applicable to the taxes imposed herein.

18 Section 28. For the purpose of incorporating the
19 amendment to section 206.44, Florida Statutes, in a reference
20 thereto, paragraph (a) of subsection (2) of section 336.021,
21 Florida Statutes, as amended by section 16 of chapter 97-54,
22 Laws of Florida, is reenacted to read:

23 336.021 County transportation system; levy of
24 ninth-cent fuel tax on motor fuel and diesel fuel.--

25 (2)(a) The tax collected by the department pursuant to
26 subsection (1) shall be transferred to the Ninth-cent Fuel Tax
27 Trust Fund, which fund is created for distribution to the
28 counties pursuant to paragraph (1)(d). The department shall
29 deduct the administrative costs incurred by it in collecting,
30 administering, enforcing, and distributing back to the
31 counties the tax, which administrative costs may not exceed 2

1 percent of collections authorized by this section. The total
2 administrative cost shall be prorated among those counties
3 levying the tax according to the following formula, which
4 shall be revised on July 1 of each year: Two-thirds of the
5 amount deducted shall be based on the county's proportional
6 share of the number of dealers who are registered for purposes
7 of chapter 212 on June 30th of the preceding state fiscal
8 year, and one-third of the amount deducted shall be based on
9 the county's share of the total amount of the tax collected
10 during the preceding state fiscal year. The department has the
11 authority to prescribe and publish all forms upon which
12 reports shall be made to it and other forms and records deemed
13 to be necessary for proper administration and collection of
14 the tax levied by any county and shall adopt rules necessary
15 to enforce this section, which rules shall have the full force
16 and effect of law. The provisions of ss. 206.026, 206.027,
17 206.028, 206.051, 206.052, 206.054, 206.055, 206.06, 206.07,
18 206.075, 206.08, 206.09, 206.095, 206.10, 206.11, 206.12,
19 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18,
20 206.199, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22,
21 206.24, 206.27, 206.28, 206.41, 206.416, 206.44, 206.45,
22 206.48, 206.49, 206.56, 206.59, 206.626, 206.87, 206.872,
23 206.873, 206.8735, 206.874, 206.8741, 206.8745, 206.94, and
24 206.945 shall, as far as practicable, be applicable to the
25 levy and collection of the tax imposed pursuant to this
26 section as if fully set out in this section.

27 Section 29. For the purpose of incorporating the
28 amendment to section 206.44, Florida Statutes, in a reference
29 thereto, paragraph (a) of subsection (2) of section 336.025,
30 Florida Statutes, as amended by section 18 of chapter 97-54,
31 Laws of Florida, is reenacted to read:

1 336.025 County transportation system; levy of local
2 option fuel tax on motor fuel and diesel fuel.--

3 (2)(a) The tax levied pursuant to paragraph (1)(a)
4 shall be collected and remitted in the same manner provided by
5 ss. 206.41(1)(e) and 206.87(1)(c). The tax levied pursuant to
6 paragraph (1)(b) shall be collected and remitted in the same
7 manner provided by s. 206.41(1)(e). The taxes remitted
8 pursuant to this section shall be transferred to the Local
9 Option Fuel Tax Trust Fund, which fund is created for
10 distribution to the county and eligible municipal governments
11 within the county in which the tax was collected and which
12 fund is subject to the service charge imposed in chapter 215.
13 The tax shall be distributed monthly by the department in the
14 same manner provided by s. 336.021(1)(c) and (d). The
15 department shall deduct the administrative costs incurred by
16 it in collecting, administering, enforcing, and distributing
17 back to the counties the tax, which administrative costs may
18 not exceed 2 percent of collections authorized by this
19 section. The total administrative costs shall be prorated
20 among those counties levying the tax according to the
21 following formula, which shall be revised on July 1 of each
22 year: Two-thirds of the amount deducted shall be based on the
23 county's proportional share of the number of dealers who are
24 registered for purposes of chapter 212 on June 30 of the
25 preceding state fiscal year, and one-third of the amount
26 deducted shall be based on the county's share of the total
27 amount of the tax collected during the preceding state fiscal
28 year. The department has the authority to prescribe and
29 publish all forms upon which reports shall be made to it and
30 other forms and records deemed to be necessary for proper
31 administration and collection of the taxes levied by any

1 county and shall promulgate such rules as may be necessary for
2 the enforcement of this section, which rules shall have the
3 full force and effect of law. The provisions of ss. 206.026,
4 206.027, 206.028, 206.051, 206.052, 206.054, 206.055, 206.06,
5 206.07, 206.075, 206.08, 206.09, 206.095, 206.10, 206.11,
6 206.12, 206.13, 206.14, 206.15, 206.16, 206.17, 206.175,
7 206.18, 206.199, 206.20, 206.204, 206.205, 206.21, 206.215,
8 206.22, 206.24, 206.27, 206.28, 206.41, 206.416, 206.44,
9 206.45, 206.48, 206.49, 206.56, 206.59, 206.626, 206.87,
10 206.872, 206.873, 206.8735, 206.874, 206.8741, 206.94, and
11 206.945 shall, as far as practicable, be applicable to the
12 levy and collection of taxes imposed pursuant to this section
13 as if fully set out in this section.

14 Section 30. Subsection (2) of section 207.007, Florida
15 Statutes, is amended to read:

16 207.007 Offenses; penalties and interest.--

17 (2) In addition to any other penalties, any delinquent
18 tax shall bear interest at the adjusted rate established
19 pursuant to s. 213.235 ~~of 1 percent per month, or fraction~~
20 ~~thereof~~, calculated from the date the tax was due. If the
21 department enters into a cooperative reciprocal agreement
22 under the provisions of s. 207.0281, the department shall
23 collect and distribute all interest due to other jurisdictions
24 at the same rate as if such interest were due to the state.

25 Section 31. Subsection (1) and paragraph (a) of
26 subsection (4) of section 211.076, Florida Statutes, are
27 amended to read:

28 211.076 Interest and penalties; failure to pay tax or
29 file return; estimated tax underpayments.--

30 (1) If any part of the tax imposed by this part is not
31 paid on or before the due date, interest shall be added to the

1 amount due at the adjusted rate established pursuant to s.
2 213.235 ~~of 12 percent per year~~ from the due date until the
3 date of payment.

4 (4)(a) Except as provided in paragraph (c), the
5 taxpayer is liable for interest at the adjusted rate
6 established pursuant to s. 213.235 ~~of 12 percent per year~~ and
7 a penalty at the rate of 12 percent per year on any
8 underpayment of estimated tax determined under this
9 subsection.

10 Section 32. Paragraph (f) of subsection (1) and
11 paragraph (d) of subsection (2) of section 211.33, Florida
12 Statutes, are amended to read:

13 211.33 Administration of the tax; returns; delinquency
14 penalties and interest; departmental inspections of records.--

15 (1)

16 (f) Except as provided in subparagraph 3., the
17 taxpayer shall be liable for interest at the adjusted rate
18 established pursuant to s. 213.235 ~~of 12 percent per year~~ and
19 for a penalty in an amount determined at the rate of 20
20 percent per year upon the amount of any underpayment of
21 estimated tax determined under this paragraph.

22 1. The amount of any underpayment of estimated tax
23 shall be the excess of:

24 a. The amount of the installment which would be
25 required to be paid if the estimated tax were equal to 80
26 percent of the tax shown on the return for the taxable year
27 or, if no return were filed, 80 percent of the tax for such
28 year, over

29 b. The amount, if any, of the installment paid on or
30 before the last date prescribed for payment.

31

1 2. The period of the underpayment for which interest
2 and penalties shall apply shall commence on the date the
3 installment was required to be paid and shall terminate on the
4 date on which the amount of underpayment is paid. A payment of
5 estimated tax on any installment date shall be considered a
6 payment of any previous underpayment only to the extent such
7 payment exceeds the amount of the installment determined under
8 sub-subparagraph 1.a. for such installment date.

9 3. No penalty or interest for underpayment of any
10 installment of estimated tax shall be imposed if the total
11 amount of all such payments made on or before the last date
12 prescribed for the payment of such installment equals or
13 exceeds the amount which would have been required to be paid
14 on or before such date if the estimated tax were the lesser
15 of:

16 a. An amount equal to 80 percent of the tax finally
17 due for the taxable year; or

18 b. An amount equal to the tax shown on the taxpayer's
19 return for the preceding taxable year, if a return showing a
20 liability for tax was filed by the taxpayer for the preceding
21 year.

22 (2)

23 (d) In addition to the delinquency penalty provided in
24 paragraph (c), the department shall assess interest on the
25 unpaid balance of any such tax which becomes delinquent,
26 without regard to any extensions, at the adjusted rate
27 established pursuant to s. 213.235 ~~of 12 percent per year~~,
28 from April 1 to the date of payment. Interest prescribed by
29 this paragraph shall be deemed assessed upon the assessment of
30 the tax and shall be collected and paid in the same manner.

31

1 Section 33. Section 220.807, Florida Statutes, is
2 amended to read:

3 220.807 ~~Determination of Rate of interest.--~~

4 ~~(1) The annual rate of interest applicable to this~~
5 ~~chapter shall be the adjusted rate established pursuant to s.~~
6 ~~213.235 by the executive director of the Department of Revenue~~
7 ~~under subsection (2).~~

8 ~~(2) If the adjusted prime rate charged by banks,~~
9 ~~rounded to the nearest full percent, during either:~~

10 ~~(a) The 6-month period ending on September 30 of any~~
11 ~~calendar year; or~~

12 ~~(b) The 6-month period ending on March 31 of any~~
13 ~~calendar year,~~

14
15 ~~differs from the interest rate in effect on either such date,~~
16 ~~the executive director of the Department of Revenue shall,~~
17 ~~within 20 days, establish an adjusted rate of interest equal~~
18 ~~to such adjusted prime rate.~~

19 ~~(3) An adjusted rate of interest established under~~
20 ~~this section shall become effective:~~

21 ~~(a) On January 1 of the succeeding year, if based upon~~
22 ~~the adjusted prime rate for the 6-month period ending on~~
23 ~~September 30; or~~

24 ~~(b) On July 1 of the same calendar year, if based upon~~
25 ~~the adjusted prime rate for the 6-month period ending on March~~
26 ~~31.~~

27 ~~(4) For the purposes of this section, "adjusted prime~~
28 ~~rate charged by banks" means the average predominant prime~~
29 ~~rate quoted by commercial banks to large business, as~~
30 ~~determined by the Board of Governors of the Federal Reserve~~
31 ~~System.~~

1 ~~(5) Once established, an adjusted rate of interest~~
2 ~~shall remain in effect until an adjustment is made under~~
3 ~~subsection (2).~~

4 Section 34. Paragraph (c) of subsection (2) of section
5 624.5092, Florida Statutes, is amended to read:

6 624.5092 Administration of taxes; payments.--

7 (2)

8 (c) When any taxpayer fails to pay any amount due
9 under this section, or any portion thereof, on or before the
10 day when such tax or installment of tax is required by law to
11 be paid, there shall be added to the amount due interest at
12 the adjusted rate established pursuant to s. 213.235 ~~of 12~~
13 ~~percent per year~~ from the date due until paid.

14 Section 35. This act shall take effect July 1, 1999.

15
16 *****

17 HOUSE SUMMARY

18
19 Revises the time periods within which the Department of
20 Revenue and the Department of Business and Professional
21 Regulation may determine and assess the amount of any
22 tax, penalty, or interest due under taxes which they have
23 authority to administer.

24 Revises the delinquency penalty for failure to pay
25 intangible personal property taxes, documentary stamp
26 taxes, and sales taxes, and the penalty for filing an
27 incomplete corporate income tax return.

28 Provides that the annual rate of interest on tax payment
29 deficiencies shall be a floating rate based on the prime
30 rate.

31 Provides for payment of interest on overpayments of taxes
administered by the Department of Revenue if refund is
not made within a specified period. Provides
requirements for refund applications. Revises the time
period within which a refund application must be made.