

66-225AX-05 Bill No. CS for CS for SB 888, 1st Eng.
Amendment No. ____ (for drafter's use only)

Senate CHAMBER ACTION House

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ORIGINAL STAMP BELOW

Representative(s) Albright offered the following:

Amendment (with title amendment)

remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

Section 1. (1) Section 166.235, Florida Statutes, is
created to read:

166.235 Procedure on purchaser's request for refund or
credit--

(1) A purchaser seeking a refund of or credit for
public service tax shall submit a written request therefor to
the seller within the time prescribed in s. 166.234(6) and in
accordance with this section. No such request shall be granted
unless the amount claimed was collected from the purchaser and
was not due to any municipality.

(a) The request shall be signed by the purchaser and
shall be deemed completed for purposes of this section and the
limitation period if it states the purchaser's name, mailing
address, account number, the tax amounts claimed, the specific
months during which those amounts were collected, and the

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1 reason for the purchaser's claim that such amounts were not
2 due to any municipality. Upon receipt of a completed request,
3 the seller shall ascertain whether it collected the tax
4 claimed from the purchaser and whether the request is timely.

5 (b) Within 30 days following receipt of a completed
6 request, the seller shall determine whether lists available
7 pursuant to s. 166.233(3) support the purchaser's claim and
8 whether all or any portion of the tax timely claimed was not
9 due to any municipality and was collected solely as a result
10 of the seller's error. The seller shall refund or credit the
11 purchaser's account for any such amount within 45 days
12 following its determination thereof.

13 (c) With respect to all amounts timely claimed which
14 the seller collected from the purchaser and which the seller
15 has not determined to be subject to refund or credit pursuant
16 to paragraph (b), the seller shall, within 30 days following
17 receipt of the completed request, provide a copy thereof to
18 each municipality to which the taxes claimed were remitted and
19 to each municipality which has asserted in writing the right
20 to impose the tax in a geographic area that includes the
21 purchaser's billing address or service address, as the case
22 may be. Within 30 days following receipt of such information,
23 each such municipality shall notify the seller in writing if
24 it approves the issuance of a refund or credit for all or a
25 specified portion of the purchaser's claim. A municipality
26 shall approve the refund or credit except to the extent the
27 tax was due to such municipality. Within 45 days following
28 receipt of notifications establishing that all of the
29 municipalities receiving the request have approved a refund or
30 credit, the seller shall issue a refund or credit the
31 purchaser's account for the amount approved by all such

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1 municipalities. The seller's obligation to issue a refund or
2 credit the purchaser's account shall be limited to amounts
3 approved in accordance with this section. The seller shall be
4 entitled to a corresponding refund or credit from any
5 municipality to which the tax was remitted.

6 (d) The seller shall issue a written response advising
7 the purchaser of the disposition of his or her request. The
8 response shall specify any portion of the tax claimed that is
9 being refunded or credited to the purchaser's account, and the
10 reason for denial of any portion of the request. Reasons for
11 denial include untimely submission of the request, that the
12 seller did not collect the tax claimed, the absence of
13 municipal approval to issue a refund or credit, that the
14 purchaser previously received a refund of or credit for the
15 same tax, and failure to provide information required to
16 complete the request. A copy of each notification received
17 from a municipality pursuant to paragraph (c) shall accompany
18 the response. If the seller submitted the request to a
19 municipality but received no such notification, the response
20 shall so state. With respect to any portion of the request
21 that is granted, the response shall be issued at the time of
22 the refund or credit to the purchaser's account. With respect
23 to any portion of the request which is denied, the response
24 shall be issued within 90 days following receipt of a
25 purchaser's completed request.

26 (e) The seller may deduct from any refund or credit
27 under this section any amount owed by the purchaser to the
28 seller which is delinquent.

29 (2) This section provides the sole and exclusive
30 procedure and remedy for a purchaser who claims that a seller
31 has collected municipal public service taxes that were not

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1 due. No action arising as a result of the claimed collection
2 of municipal public service taxes that were not due may be
3 commenced or maintained by or on behalf of a purchaser against
4 a seller or municipality unless the purchaser pleads and
5 proves that he or she has exhausted the procedures in
6 subsection (1) and that the defendant has failed to comply
7 with said subsection; however, no determination of a seller
8 under paragraph (1)(b) shall be deemed a failure to comply
9 with subsection (1) if the seller has complied with paragraphs
10 (1)(c) and (d). In any such action it shall be a complete
11 defense that the seller or municipality has refunded the taxes
12 claimed or credited the purchaser's account therewith;
13 further, in such an action against a seller it shall be a
14 complete defense that the seller collected the tax in reliance
15 upon written information provided by a municipality pursuant
16 to s. 166.233(3) or supplementing such information. Such
17 action shall be commenced no later than 180 days following the
18 purchaser's submission of a completed request, or shall be
19 barred. The relief available to a purchaser as a result of
20 collection of municipal public service taxes that were not due
21 shall be limited to a refund of or credit for such taxes.

22 (2) This section is remedial in nature, and shall
23 apply to all claims asserted by purchasers prior or subsequent
24 to the effective date of this section based upon the alleged
25 collection of municipal public service taxes that were not
26 due, except for claims that have been finally resolved by
27 judgment, settlement, or the issuance of refunds or credits
28 prior to the effective date of this section. With respect to
29 any claim which was properly asserted prior to the effective
30 date of this section and which is the subject of pending
31 litigation in a trial or appellate court on or after the

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1 effective date of this section, the court shall upon motion
2 direct the parties to comply with the procedures prescribed in
3 s. 166.235, Florida Statutes, and allow such amendments of the
4 pleadings and enter such other orders as are appropriate to
5 dispose of the cause in a manner consistent with said section.

6 Section 2. (1) Subsection (1) of section 196.1975,
7 Florida Statutes, is amended to read:

8 196.1975 Exemption for property used by nonprofit
9 homes for the aged.--Nonprofit homes for the aged are exempt
10 to the extent that they meet the following criteria:

11 (1) The applicant must be a corporation not for profit
12 or a Florida limited partnership, the sole general partner of
13 which is a corporation not for profit, and the corporation not
14 for profit must have that has been exempt as of January 1 of
15 the year for which exemption from ad valorem property taxes is
16 requested from federal income taxation by having qualified as
17 an exempt charitable organization under the provisions of s.
18 501(c)(3) of the Internal Revenue Code of 1954 or of the
19 corresponding section of a subsequently enacted federal
20 revenue act. ~~A corporation will not be disqualified under this~~
21 ~~subsection if, for purposes of allocating tax credits, under~~
22 ~~s. 42(h)(5) of the Internal Revenue Code of 1986, by the~~
23 ~~Florida Housing Finance Agency as defined by s. 420.0004(4),~~
24 ~~the property is leased to a Florida limited partnership, the~~
25 ~~sole general partner of which is the nonprofit corporation,~~
26 ~~and the home for the aged was in existence or under~~
27 ~~construction on or before April 1, 1995.~~

28 (2) Notwithstanding anything contained in this section
29 to the contrary, any nonprofit home for the aged that was
30 subject to ad valorem taxation for the year ending December
31 31, 1998, because of a failure to qualify for exemption under

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1 the provisions of s. 196.1975(1), Florida Statutes, shall not
2 become exempt from ad valorem taxation by virtue of the
3 amendment to s. 196.1975(1), Florida Statutes, by this
4 section.

5 Section 3. (1) Section 198.12, Florida Statutes, is
6 repealed.

7 (2) This section shall take effect January 1, 2000,
8 and shall apply with respect to decedents whose death occurs
9 on or after that date.

10 Section 4. (1) Subsection (2) of section 198.13,
11 Florida Statutes, is renumbered as subsection (3), and a new
12 subsection (2) is added to said section to read:

13 198.13 Tax return to be made in certain cases;
14 certificate of nonliability.--

15 (2) Whenever it is made to appear to the department
16 that an estate that has filed a return owes no taxes under
17 this chapter, the department shall issue to the personal
18 representative a certificate in writing to that effect, which
19 certificate shall have the same force and effect as a receipt
20 showing payment. The certificate shall be subject to record
21 and admissible in evidence in like manner as a receipt showing
22 payment of taxes. A fee of \$5 shall be paid to the department
23 for each certificate so issued.

24 (2) This section shall take effect January 1, 2000,
25 and shall apply with respect to decedents whose death occurs
26 on or after that date.

27 Section 5. (1) Section 198.23, Florida Statutes, is
28 amended to read:

29 198.23 Personal liability of personal
30 representative.--If any personal representative shall make
31 distribution either in whole or in part of any of the property

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1 of an estate to the heirs, next of kin, distributees,
2 legatees, or devisees without having paid or secured the tax
3 due the state under this chapter, or having obtained the
4 release of such property from the lien of such tax either by
5 the department or pursuant to s. 198.32(2), he or she shall
6 become personally liable for the tax so due the state, or so
7 much thereof as may remain due and unpaid, to the full extent
8 of the full value of any property belonging to such person or
9 estate which may come into the personal representative's
10 hands, custody, or control.

11 (2) This section shall take effect January 1, 2000,
12 and shall apply with respect to decedents whose death occurs
13 on or after that date.

14 Section 6. (1) Section 198.26, Florida Statutes, is
15 amended to read:

16 198.26 No discharge of personal representative until
17 tax is paid.--No final account of a personal representative ~~of~~
18 ~~the estate of a nonresident, nor of the estate of a resident~~
19 ~~when the value of the gross estate wherever situate exceeds~~
20 ~~\$60,000~~ shall be allowed by any court unless and until such
21 account shows, and the judge of said court finds, that the tax
22 imposed by the provisions of this chapter upon the personal
23 representative, which has become payable, has been paid. The
24 certificate of the department of nonliability for the tax or
25 its receipt for the amount of tax therein certified shall be
26 conclusive in such proceedings as to the liability or the
27 payment of the tax to the extent of said certificate. In the
28 case of a nontaxable estate, the court may consider the
29 affidavit prepared pursuant to s. 198.32(2) as evidence of the
30 nonliability for tax.

31 (2) This section shall take effect January 1, 2000,

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1 and shall apply with respect to decedents whose death occurs
2 on or after that date.

3 Section 7. (1) Section 198.32, Florida Statutes, is
4 amended to read:

5 198.32 Prima facie liability for tax.--

6 (1) The estate of each decedent whose property is
7 subject to the laws of the state shall be deemed prima facie
8 liable for estate taxes under this chapter and shall be
9 subject to a lien therefor in such amount as may be later
10 determined to be due and payable on the estate as provided in
11 this chapter. This presumption of liability shall begin on
12 the date of the death of the decedent and shall continue until
13 the full settlement of all taxes which may be found to be due
14 under this chapter, the settlement to be shown by receipts for
15 all taxes due to be issued by the department as provided for
16 in this chapter. ~~Whenever it is made to appear to the~~
17 ~~department that an estate is not subject to any tax under this~~
18 ~~chapter, the department shall issue to the personal~~
19 ~~representative, administrator, or curator, or to the heirs,~~
20 ~~devisees, or legatees of the decedent, a certificate in~~
21 ~~writing to that effect, showing such nonliability to tax,~~
22 ~~which certificate of nonliability shall have the same force~~
23 ~~and effect as a receipt showing payment. The certificate of~~
24 ~~nonliability shall be subject to record and admissible in~~
25 ~~evidence in like manner as receipts showing payment of taxes.~~
26 ~~A fee of \$5 shall be paid to the department for each~~
27 ~~certificate so issued.~~

28 (2) Whenever an estate is not subject to tax under
29 this chapter and is not required to file a return, the
30 personal representative may execute an affidavit attesting
31 that the estate is not taxable. The form of the affidavit

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1 shall be prescribed by the department, and shall include, but
2 not be limited to, statements regarding the decedent's
3 domicile and whether a federal estate tax return will be
4 filed, and acknowledgment of the personal representative's
5 personal liability under s. 198.23. This affidavit shall be
6 subject to record and admissible in evidence to show
7 nonliability for tax.

8 (2) This section shall take effect January 1, 2000,
9 and shall apply with respect to decedents whose death occurs
10 on or after that date.

11 Section 8. (1) Subsection (1) of section 198.33,
12 Florida Statutes, is amended to read:

13 198.33 Discharge of estate, notice of lien, limitation
14 on lien, etc.--

15 (1) Where no receipt for the payment of taxes, or no
16 affidavit or certificate ~~receipt~~ of nonliability for taxes has
17 been issued or recorded as provided for in this chapter, the
18 property constituting the estate of the decedent in this state
19 shall be deemed fully acquitted and discharged of all
20 liability for estate and inheritance taxes under this chapter
21 after a lapse of 10 years ~~from the date of the filing with the~~
22 ~~department of notice of the decedent's death, or after a lapse~~
23 ~~of 10 years~~ from the date of the filing with the department of
24 an estate tax return, ~~whichever date shall be earlier,~~ unless
25 the department shall make out and file and have recorded in
26 the public records of the county wherein any part of the
27 estate of the decedent may be situated in this state, a notice
28 of lien against the property of the estate, specifying the
29 amount or approximate amount of taxes claimed to be due to the
30 state under this chapter, which notice of lien shall continue
31 said lien in force for an additional period of 5 years or

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1 until payment is made. Such notice of lien shall be filed and
2 recorded in the book of deeds in the office of the clerk of
3 the circuit court; provided, where no receipt for the payment
4 of taxes, or no affidavit or certificate of nonliability for
5 taxes, has been issued or recorded as provided for in this
6 chapter, the property constituting the estate of the decedent
7 in this state, if said decedent was a resident of this state
8 at the time of death, shall be deemed fully acquitted and
9 discharged of all liability for tax under this chapter after a
10 lapse of 10 years from the date of the death of the decedent,
11 unless the department shall make out and file and have
12 recorded notice of lien as herein provided, which notice shall
13 continue said lien in force against such property of the
14 estate as is situate in the county wherein said notice of lien
15 was recorded for an additional period of 5 years or until
16 payment is made.

17 (2) This section shall take effect January 1, 2000,
18 and shall apply with respect to decedents whose death occurs
19 on or after that date.

20 Section 9. (1) Section 198.39, Florida Statutes, is
21 amended to read:

22 198.39 False statement in return; penalty.--Whoever
23 knowingly makes any false statement in any notice, affidavit,
24 or return required to be filed or made under this chapter is
25 guilty of a misdemeanor of the first degree, punishable as
26 provided in s. 775.082 or s. 775.083.

27 (2) This section shall take effect January 1, 2000,
28 and shall apply with respect to decedents whose death occurs
29 on or after that date.

30 Section 10. Subsections (2) and (3) of section
31 199.106, Florida Statutes, are amended to read:

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1 199.106 Credit for taxes imposed by other states.--
 2 (2) For intangible personal property that has a
 3 taxable situs in this state under s. 199.175(1) or any similar
 4 predecessor statute, a credit against the tax imposed by s.
 5 199.032 is allowed to a taxpayer, ~~other than a natural person,~~
 6 in an amount equal to a like tax lawfully imposed and paid by
 7 that taxpayer on the same property in another state, territory
 8 of the United States, or the District of Columbia when the
 9 other taxing authority is also claiming situs under provisions
 10 similar or identical to those in s. 199.175(1) or any similar
 11 predecessor statute. For purposes of this subsection, "like
 12 tax" means an ad valorem tax on intangible personal property
 13 which is also subject to tax under s. 199.032. The credit may
 14 not exceed the tax imposed on the property under s. 199.032.
 15 Proof of entitlement to such a credit must be made pursuant to
 16 rules and forms adopted by the department.

17 (3) The credits provided by this section ~~subsections~~
 18 ~~(1) and (2)~~ apply retroactively to ~~December 31, 1979.~~

19 However, notwithstanding the retroactivity of these credit
 20 provisions, this section does not reopen a closed period of
 21 nonclaim under s. 215.26 or any other statute or extend the
 22 period of nonclaim under s. 215.26 or any other statute.

23 Section 11. Section 201.165, Florida Statutes, is
 24 created to read:

25 201.165 Credit for tax paid to other states.--

26 (1) For a tax imposed by any section of this chapter,
 27 a credit against the specific tax imposed by that section is
 28 allowed in an amount equal to a like tax lawfully imposed and
 29 paid on the same document or instrument in another state,
 30 territory of the United States, or the District of Columbia.
 31 For purposes of this subsection, "like tax" means an excise

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1 tax on documents that is in substance identical to the tax
2 imposed by this chapter on the same document. The credit may
3 not exceed the tax imposed by this chapter on the document.
4 Proof of entitlement to such a credit must be provided to the
5 department. The department may adopt rules to implement this
6 credit and designate forms that establish what proof is
7 required.

8 (2) The credit provided by this section applies
9 retroactively. Notwithstanding the retroactivity of this
10 credit provision, this section does not reopen a closed period
11 of nonclaim under s. 215.26 or any other statute or extend the
12 period of nonclaim under s. 215.26 or any other statute.

13 Section 12. Paragraph (c) of subsection (14) of
14 section 212.02, Florida Statutes, 1998 Supplement, is amended
15 to read:

16 212.02 Definitions.--The following terms and phrases
17 when used in this chapter have the meanings ascribed to them
18 in this section, except where the context clearly indicates a
19 different meaning:

20 (14)

21 (c) "Retail sales," "sale at retail," "use,"
22 "storage," and "consumption" do not include materials,
23 containers, labels, sacks, bags, or similar items intended to
24 accompany a product sold to a customer without which delivery
25 of the product would be impracticable because of the character
26 of the contents and be used one time only for packaging
27 tangible personal property for sale or for the convenience of
28 the customer or for packaging in the process of providing a
29 service taxable under this chapter. When a separate charge for
30 packaging materials is made, the charge shall be considered
31 part of the sales price or rental charge for purposes of

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1 determining the applicability of tax. The terms do ~~term also~~
2 ~~does~~ not include the sale, use, storage, or consumption of
3 industrial materials, including chemicals and fuels except as
4 provided herein, for future processing, manufacture, or
5 conversion into articles of tangible personal property for
6 resale when such industrial materials, including chemicals and
7 fuels except as provided herein, become a component or
8 ingredient of the finished product ~~and do not include the~~
9 ~~sale, use, storage, or consumption of materials for use in~~
10 ~~repairing a motor vehicle, airplane, or boat, when such~~
11 ~~materials are incorporated into the repaired vehicle,~~
12 ~~airplane, or boat.~~ However, the terms include the sale, use,
13 storage, or consumption of tangible personal property,
14 including machinery and equipment or parts thereof, purchased
15 electricity, and fuels used to power machinery, when such
16 items are used and dissipated in fabricating, converting, or
17 processing tangible personal property for sale, even though
18 they may become ingredients or components of the tangible
19 personal property for sale through accident, wear, tear,
20 erosion, corrosion, or similar means. The terms do not
21 include the sale of materials to a registered repair facility
22 for use in repairing a motor vehicle, airplane, or boat, when
23 such materials are incorporated into and sold as part of the
24 repair. Such a sale shall be deemed a purchase for resale by
25 the repair facility, even though every material is not
26 separately stated or separately priced on the repair invoice.

27 Section 13. Effective January 1, 2000, subsections (4)
28 and (5) of section 212.04, Florida Statutes, 1998 Supplement,
29 are amended to read:

30 212.04 Admissions tax; rate, procedure, enforcement.--

31 (4) Each person who exercises the privilege of

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1 charging admission taxes, as herein defined, shall apply for,
2 and at that time shall furnish the information and comply with
3 the provisions of s. 212.18 not inconsistent herewith and
4 receive from the department, a certificate of right to
5 exercise such privilege, which certificate shall apply to each
6 place of business where such privilege is exercised and shall
7 be in the manner and form prescribed by the department. Such
8 certificate shall be issued upon payment to the department of
9 a registration fee of \$5 by the applicant. Each person
10 exercising the privilege of charging such admission taxes as
11 herein defined shall cause to be kept records and accounts
12 showing the admission which shall be in the form as the
13 department may from time to time prescribe, inclusive of
14 records of all tickets numbered and issued for a period of not
15 less than the time within which the department may, as
16 permitted by s. 95.091(3), make an assessment with respect to
17 any admission evidenced by such records and accounts, and
18 inclusive of all bills or checks of customers who are charged
19 any of the taxes defined herein, showing the charge made to
20 each for that period. The department is empowered to use each
21 and every one of the powers granted herein to the department
22 to discover the amount of tax to be paid by each such person
23 and to enforce the payment thereof as are hereby granted the
24 department for the discovery and enforcement of the payment of
25 taxes hereinafter levied on the sales of tangible personal
26 property. ~~The failure of any person to pay such taxes before~~
27 ~~the 21st day of the succeeding month after the taxes are~~
28 ~~collected shall render such person liable to the same~~
29 ~~penalties that are hereafter imposed upon such person for~~
30 ~~being delinquent in the payment of taxes imposed upon the~~
31 ~~sales of tangible personal property; the failure of any person~~

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~~1 to render returns and to pay taxes as prescribed herein shall
2 render such person subject to the same penalties, by way of
3 charges for delinquencies, at the rate of 10 percent per month
4 for a total amount of tax delinquent up to a total of 50
5 percent of such tax and at the rate of 100-percent penalty for
6 attempted evasion of payment of any such tax or for any
7 attempt to file false or misleading returns that are required
8 to be filed by the department.~~

9 (5) All of the provisions of this chapter relating to
10 collection, investigation, discovery, and aids to collection
11 of taxes upon sales of tangible personal property shall
12 likewise apply to all privileges described or referred to in
13 this section, and the obligations imposed in this chapter upon
14 retailers are hereby imposed upon the seller of such
15 admissions. All penalties applicable to a dealer in tangible
16 personal property for failure to meet any such obligation,
17 including, but not limited to, any failure related to the
18 filing of returns, the payment of taxes, or the maintenance
19 and production of records, are applicable to the seller of
20 admissions.When tickets or admissions are sold and not used
21 but returned and credited by the seller, the seller may apply
22 to the department for a credit allowance for such returned
23 tickets or admissions if advance payments have been made by
24 the buyer and have been returned by the seller, upon such form
25 and in such manner as the department may from time to time
26 prescribe. The department may, upon obtaining satisfactory
27 proof of the refunds on the part of the seller, credit the
28 seller for taxes paid upon admissions that have been returned
29 unused to the purchaser of those admissions. The seller of
30 admissions, upon the payment of the taxes before they become
31 delinquent and the rendering of the returns in accordance with

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1 the requirement of the department and as provided in this law,
2 shall be entitled to a discount of 2.5 percent of the amount
3 of taxes upon the payment thereof before such taxes become
4 delinquent, in the same manner as permitted the sellers of
5 tangible personal property in this chapter. However, if the
6 amount of the tax due and remitted to the department for the
7 reporting period exceeds \$1,200, no discount shall be allowed
8 for all amounts in excess of \$1,200.

9 Section 14. Effective January 1, 2000, subsections (2)
10 and (13) of section 212.12, Florida Statutes, 1998 Supplement,
11 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 10 percent of any unpaid tax or fee if the failure
24 is for not more than 30 days, with an additional 10 percent of
25 any unpaid tax or fee for each additional 30 days, or fraction
26 thereof, during the time which the failure continues, not to
27 exceed a total penalty of 50 percent, in the aggregate, of any
28 unpaid tax or fee. In no event may the penalty be less than
29 \$10 for failure to timely file a tax return required by s.
30 212.11(1)(b) or \$5 for failure to timely file a tax return
31 authorized by s. 212.11(1)(c) or (d). ~~In the case of a false~~

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

9 (b) Any person who knowingly and with a willful intent
10 to evade any tax imposed under this chapter fails to file six
11 consecutive returns as required by law commits a felony of the
12 third degree, punishable as provided in s. 775.082 or s.
13 775.083.

14 (c) Any person who makes a false or fraudulent return
15 with a willful intent to evade payment of any tax or fee
16 imposed under this chapter shall, in addition to the other
17 penalties provided by law, be liable for a specific penalty of
18 100 percent of the tax bill or fee and, upon conviction, for
19 fine and punishment as provided in s. 775.082, s. 775.083, or
20 s. 775.084.

21 1. If the total amount of unreported taxes or fees is
22 less than \$300, the first offense resulting in conviction is a
23 misdemeanor of the second degree, the second offense resulting
24 in conviction is a misdemeanor of the first degree, and the
25 third and all subsequent offenses resulting in conviction are
26 felonies of the third degree.

27 2. If the total amount of unreported taxes or fees is
28 \$300 or more but less than \$20,000, the offense is a felony of
29 the third degree.

30 3. If the total amount of unreported taxes or fees is
31 \$20,000 or more but less than \$100,000, the offense is a

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1 felony of the second degree.

2 4. If the total amount of unreported taxes or fees is
3 \$100,000 or more, the offense is a felony of the first degree.

4 (d)(b) When any person, firm, or corporation fails to
5 timely remit the proper estimated payment required under s.
6 212.11, a specific penalty shall be added in an amount equal
7 to 10 percent of any unpaid estimated tax. Beginning with
8 January 1, 1985, returns, the department, upon a showing of
9 reasonable cause, is authorized to waive or compromise
10 penalties imposed by this paragraph. However, other penalties
11 and interest shall be due and payable if the return on which
12 the estimated payment was due was not timely or properly
13 filed.

14 (e)(c) Dealers filing a consolidated return pursuant
15 to s. 212.11(1)(e)(d) shall be subject to the penalty
16 established in paragraph (d)(b) unless the dealer has paid
17 the required estimated tax for his or her consolidated return
18 as a whole without regard to each location. If the dealer
19 fails to pay the required estimated tax for his or her
20 consolidated return as a whole, each filing location shall
21 stand on its own with respect to calculating penalties
22 pursuant to paragraph (d)(b).

23 (13) In order to aid the administration and
24 enforcement of the provisions of this chapter with respect to
25 the rentals and license fees, each lessor or person granting
26 the use of any hotel, apartment house, roominghouse, tourist
27 or trailer camp, real property, or any interest therein, or
28 any portion thereof, inclusive of owners; property managers;
29 lessors; landlords; hotel, apartment house, and roominghouse
30 operators; and all licensed real estate agents within the
31 state leasing, granting the use of, or renting such property,

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1 shall be required to keep a record of each and every such
2 lease, license, or rental transaction which is taxable under
3 this chapter, in such a manner and upon such forms as the
4 department may prescribe, and to report such transaction to
5 the department or its designated agents, and to maintain such
6 records as long as required by s. 213.35, subject to the
7 inspection of the department and its agents. Upon the failure
8 by such owner; property manager; lessor; landlord; hotel,
9 apartment house, roominghouse, tourist or trailer camp
10 operator; or real estate agent to keep and maintain such
11 records and to make such reports upon the forms and in the
12 manner prescribed, such owner; property manager; lessor;
13 landlord; hotel, apartment house, roominghouse, tourist or
14 trailer camp operator; receiver of rent or license fees; or
15 real estate agent is guilty of a misdemeanor of the second
16 degree, punishable as provided in s. 775.082 or s. 775.083,
17 for the first offense; for subsequent offenses, they are each
18 guilty of a misdemeanor of the first degree, punishable as
19 provided in s. 775.082 or s. 775.083. If, however, any
20 subsequent offense involves intentional destruction of such
21 records with an intent to evade payment of or deprive the
22 state of any tax revenues, such subsequent offense shall be a
23 felony of the third degree, punishable as provided in s.
24 775.082 or s. 775.083.

25 Section 15. Effective January 1, 2000, paragraph (e)
26 of subsection (4) of section 212.11, Florida Statutes, 1998
27 Supplement, is amended to read:

28 212.11 Tax returns and regulations.--

29 (4)

30 (e) The penalty provisions of this chapter, except s.
31 212.12(2)(e)~~(e)~~, apply to the provisions of this subsection.

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1 Section 16. Effective January 1, 2000, subsections (1)
2 and (2) of section 212.13, Florida Statutes, are amended to
3 read:

4 212.13 Records required to be kept; power to inspect;
5 audit procedure.--

6 (1) For the purpose of enforcing the collection of the
7 tax levied by this chapter, the department is hereby
8 specifically authorized and empowered to examine at all
9 reasonable hours the books, records, and other documents of
10 all transportation companies, agencies, or firms that conduct
11 their business by truck, rail, water, aircraft, or otherwise,
12 in order to determine what dealers, or other persons charged
13 with the duty to report or pay a tax under this chapter, are
14 importing or are otherwise shipping in articles or tangible
15 personal property which are liable for said tax. In the event
16 said transportation company, agency, or firm refuses to permit
17 such examination of its books, records, or other documents by
18 the department as aforesaid, it is guilty of a misdemeanor of
19 the first degree, punishable as provided in s. 775.082 or s.
20 775.083. If, however, any subsequent offense involves
21 intentional destruction of such records with an intent to
22 evade payment of or deprive the state of any tax revenues,
23 such subsequent offense shall be a felony of the third degree,
24 punishable as provided in s. 775.082 or s. 775.083.The
25 department shall have the right to proceed in any chancery
26 court to seek a mandatory injunction or other appropriate
27 remedy to enforce its right against the offender, as granted
28 by this section, to require an examination of the books and
29 records of such transportation company or carrier.

30 (2) Each dealer, as defined in this chapter, shall
31 secure, maintain, and keep as long as required by s. 213.35 a

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1 complete record of tangible personal property or services
2 received, used, sold at retail, distributed or stored, leased
3 or rented by said dealer, together with invoices, bills of
4 lading, gross receipts from such sales, and other pertinent
5 records and papers as may be required by the department for
6 the reasonable administration of this chapter; all such
7 records which are located or maintained in this state shall be
8 open for inspection by the department at all reasonable hours
9 at such dealer's store, sales office, general office,
10 warehouse, or place of business located in this state. Any
11 dealer who maintains such books and records at a point outside
12 this state must make such books and records available for
13 inspection by the department where the general records are
14 kept. Any dealer subject to the provisions of this chapter who
15 violates these provisions is guilty of a misdemeanor of the
16 first degree, punishable as provided in s. 775.082 or s.
17 775.083. If, however, any subsequent offense involves
18 intentional destruction of such records with an intent to
19 evade payment of or deprive the state of any tax revenues,
20 such subsequent offense shall be a felony of the third degree,
21 punishable as provided in s. 775.082 or s. 775.083.

22 Section 17. Effective January 1, 2000, section
23 213.757, Florida Statutes, is created to read:
24 213.757 Willful failure to pay over funds or
25 destruction of records by agent.--Any person who accepts money
26 from a taxpayer that is due to the department, for the purpose
27 of acting as the taxpayer's agent to make the payment to the
28 department, but who willfully fails to remit such payment to
29 the department when due, commits a felony of the third degree,
30 punishable as provided in s. 775.082, s. 775.083, or s.
31 775.084. Any person who has possession as a taxpayer's agent

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1 of the taxpayer's records that are required to be maintained
2 under the revenue laws of this state and who intentionally
3 destroys those records with the intent of depriving the state
4 of tax revenues commits a felony of the third degree,
5 punishable as provided in s. 775.082, s. 775.083, or s.
6 775.084.

7 Section 18. Effective February 1, 2000, paragraph (b)
8 of subsection (1) of section 212.07, Florida Statutes, 1998
9 Supplement, is amended to read:

10 212.07 Sales, storage, use tax; tax added to purchase
11 price; dealer not to absorb; liability of purchasers who
12 cannot prove payment of the tax; penalties; general
13 exemptions.--

14 (1)

15 (b) A resale must be in strict compliance with s.
16 212.18 and the rules and regulations, and any dealer who makes
17 a sale for resale which is not in strict compliance with s.
18 212.18 and the rules and regulations shall himself or herself
19 be liable for and pay the tax. Any dealer who makes a sale for
20 resale shall document the exempt nature of the transaction, as
21 established by rules promulgated by the department, by
22 retaining a copy of the purchaser's resale certificate. In
23 lieu of maintaining a copy of the certificate, a dealer may
24 document, prior to the time of sale, an authorization number
25 provided telephonically or electronically by the department,
26 or by such other means established by rule of the department.
27 The department shall adopt rules that provide that, for
28 purchasers who purchase on account from a dealer on a
29 continual basis, the dealer may rely on a resale certificate
30 issued pursuant to s. 212.18(3)(c), valid at the time of
31 receipt from the purchaser, without seeking annual

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1 verification of the resale certificate. A dealer may, through
2 the informal protest provided for in s. 213.21 and the rules
3 of the Department of Revenue, provide the department with
4 evidence of the exempt status of a sale. The Department of
5 Revenue shall adopt rules which provide that valid ~~resale~~
6 ~~certificates~~ and consumer certificates of exemption executed
7 by those ~~dealers~~ or exempt entities which were registered with
8 the department at the time of sale, resale certificates
9 provided by purchasers who were active dealers at the time of
10 sale, and verification by the department of a purchaser's
11 active dealer status at the time of sale in lieu of a resale
12 certificate shall be accepted by the department when submitted
13 during the protest period but may not be accepted in any
14 proceeding under chapter 120 or any circuit court action
15 instituted under chapter 72.

16 Section 19. Effective January 1, 2000, subsection (3)
17 of section 212.18, Florida Statutes, 1998 Supplement, is
18 amended to read:

19 212.18 Administration of law; registration of dealers;
20 rules.--

21 (3)(a) Every person desiring to engage in or conduct
22 business in this state as a dealer, as defined in this
23 chapter, or to lease, rent, or let or grant licenses in living
24 quarters or sleeping or housekeeping accommodations in hotels,
25 apartment houses, roominghouses, or tourist or trailer camps
26 that are subject to tax under s. 212.03, or to lease, rent, or
27 let or grant licenses in real property, as defined in this
28 chapter, and every person who sells or receives anything of
29 value by way of admissions, must file with the department an
30 application for a certificate of registration for each place
31 of business, showing the names of the persons who have

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1 interests in such business and their residences, the address
2 of the business, and such other data as the department may
3 reasonably require. However, owners and operators of vending
4 machines or newspaper rack machines are required to obtain
5 only one certificate of registration for each county in which
6 such machines are located. The department, by rule, may
7 authorize a dealer that uses independent sellers to sell its
8 merchandise to remit tax on the retail sales price charged to
9 the ultimate consumer in lieu of having the independent seller
10 register as a dealer and remit the tax. The department may
11 appoint the county tax collector as the department's agent to
12 accept applications for registrations. The application must be
13 made to the department before the person, firm, copartnership,
14 or corporation may engage in such business, and it must be
15 accompanied by a registration fee of \$5. However, a
16 registration fee is not required to accompany an application
17 to engage in or conduct business to make mail order sales.

18 (b) The department, upon receipt of such application,
19 will grant to the applicant a separate certificate of
20 registration for each place of business, which certificate may
21 be canceled by the department or its designated assistants for
22 any failure by the certificateholder to comply with any of the
23 provisions of this chapter. The certificate is not assignable
24 and is valid only for the person, firm, copartnership, or
25 corporation to which issued. The certificate must be placed in
26 a conspicuous place in the business or businesses for which it
27 is issued and must be displayed at all times. Except as
28 provided in this subsection ~~paragraph~~, no person shall engage
29 in business as a dealer or in leasing, renting, or letting of
30 or granting licenses in living quarters or sleeping or
31 housekeeping accommodations in hotels, apartment houses,

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1 roominghouses, tourist or trailer camps, or real property as
2 hereinbefore defined, nor shall any person sell or receive
3 anything of value by way of admissions, without first having
4 obtained such a certificate or after such certificate has been
5 canceled; no person shall receive any license from any
6 authority within the state to engage in any such business
7 without first having obtained such a certificate or after such
8 certificate has been canceled. The engaging in the business of
9 selling or leasing tangible personal property or services or
10 as a dealer, as defined in this chapter, or the engaging in
11 leasing, renting, or letting of or granting licenses in living
12 quarters or sleeping or housekeeping accommodations in hotels,
13 apartment houses, roominghouses, or tourist or trailer camps
14 that are taxable under this chapter, or real property, or the
15 engaging in the business of selling or receiving anything of
16 value by way of admissions, without such certificate first
17 being obtained or after such certificate has been canceled by
18 the department, is prohibited. The failure or refusal of any
19 person, firm, copartnership, or corporation to so qualify when
20 required hereunder is a misdemeanor of the first degree,
21 punishable as provided in s. 775.082 or s. 775.083, or subject
22 to injunctive proceedings as provided by law. Such failure or
23 refusal also subjects the offender to a \$100 initial
24 registration fee in lieu of the \$5 registration fee authorized
25 in ~~this~~ paragraph(a). However, the department may waive the
26 increase in the registration fee if it is determined by the
27 department that the failure to register was due to reasonable
28 cause and not to willful negligence, willful neglect, or
29 fraud.

30 (c) In addition to the certificate of registration,
31 the department shall provide to each newly registered dealer

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1 an initial resale certificate that will be valid for the
2 remainder of the period of issuance. The department shall
3 provide each active dealer with an annual resale certificate.
4 For purposes of this section, "active dealer" means a person
5 who is currently registered with the department and who is
6 required to file at least once during each applicable
7 reporting period.

8 (d)(b) The department may revoke any dealer's
9 certificate of registration when the dealer fails to comply
10 with this chapter. Prior to revocation of a dealer's
11 certificate of registration, the department must schedule an
12 informal conference at which the dealer may present evidence
13 regarding the department's intended revocation or enter into a
14 compliance agreement with the department. The department must
15 notify the dealer of its intended action and the time, place,
16 and date of the scheduled informal conference by written
17 notification sent by United States mail to the dealer's last
18 known address of record furnished by the dealer on a form
19 prescribed by the department. The dealer is required to attend
20 the informal conference and present evidence refuting the
21 department's intended revocation or enter into a compliance
22 agreement with the department which resolves the dealer's
23 failure to comply with this chapter. The department shall
24 issue an administrative complaint under s. 120.60 if the
25 dealer fails to attend the department's informal conference,
26 fails to enter into a compliance agreement with the department
27 resolving the dealer's noncompliance with this chapter, or
28 fails to comply with the executed compliance agreement.

29 (e)(c) As used in this paragraph, the term "exhibitor"
30 means a person who enters into an agreement authorizing the
31 display of tangible personal property or services at a

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1 convention or a trade show. The following provisions apply to
2 the registration of exhibitors as dealers under this chapter:

3 1. An exhibitor whose agreement prohibits the sale of
4 tangible personal property or services subject to the tax
5 imposed in this chapter is not required to register as a
6 dealer.

7 2. An exhibitor whose agreement provides for the sale
8 at wholesale only of tangible personal property or services
9 subject to the tax imposed in this chapter must obtain a
10 resale certificate from the purchasing dealer but is not
11 required to register as a dealer.

12 3. An exhibitor whose agreement authorizes the retail
13 sale of tangible personal property or services subject to the
14 tax imposed in this chapter must register as a dealer and
15 collect the tax imposed under this chapter on such sales.

16 4. Any exhibitor who makes a mail order sale pursuant
17 to s. 212.0596 must register as a dealer.

18

19 Any person who conducts a convention or a trade show must make
20 their exhibitor's agreements available to the department for
21 inspection and copying.

22 Section 20. Effective January 1, 2000, subsection (10)
23 of section 213.053, Florida Statutes, 1998 Supplement, is
24 amended to read:

25 213.053 Confidentiality and information sharing.--

26 (10) Notwithstanding any other provision of this
27 section, with respect to a request for verification of a
28 certificate of registration issued pursuant to s. 212.18 to a
29 specified dealer or taxpayer or with respect to a request by a
30 law enforcement officer for verification of a certificate of
31 registration issued pursuant to s. 538.09 to a specified

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1 secondhand dealer or pursuant to s. 538.25 to a specified
2 secondary metals recycler, the department may disclose whether
3 the specified person holds a valid certificate or whether a
4 specified certificate number is valid or whether a specified
5 certificate number has been canceled or is inactive or invalid
6 and the name of the holder of such certificate. This
7 subsection shall not be construed to create a duty to request
8 verification of any certificate of registration.

9 Section 21. Effective January 1, 2000, the Department
10 of Revenue shall establish a toll-free number for verification
11 of valid registration numbers and resale certificates. The
12 system must be sufficient to guarantee a low busy rate and
13 must respond to keypad inquiries, and data must be updated
14 daily.

15 Section 22. Effective January 1, 2000, the Department
16 of Revenue shall establish a system for receiving information
17 from dealers regarding certificate numbers of those seeking to
18 make purchases for resale. The department must provide such
19 dealers with verification of those numbers which are canceled
20 or invalid. This information must be provided by the
21 department free of charge.

22 Section 23. Effective July 1, 1999, the Department of
23 Revenue shall expand its dealer education program regarding
24 the proper use of resale certificates. The expansion shall
25 include, but not be limited to, revision of the registration
26 application for clarity, development of industry-specific
27 brochures, development of a media campaign to heighten
28 awareness of resale fraud and its consequences, outreach to
29 business and professional organizations, and creation of
30 seminars and continuing education programs for taxpayers and
31 licensed professionals.

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1 Section 24. (1) The sums of \$211,065 to be used for
 2 salaries, benefits, and expenses and \$23,455 to be used for
 3 operating capital outlay are appropriated from the General
 4 Revenue Fund to the Department of Revenue, and 1.5 FTEs are
 5 authorized, to implement the provisions of this act regarding
 6 resale certificates under chapter 212, Florida Statutes.

7 (2) This section shall take effect July 1, 1999.

8 Section 25. (1) Paragraph (ii) of subsection (7) and
 9 subsection (10) of section 212.08, Florida Statutes, 1998
 10 Supplement, are amended to read:

11 212.08 Sales, rental, use, consumption, distribution,
 12 and storage tax; specified exemptions.--The sale at retail,
 13 the rental, the use, the consumption, the distribution, and
 14 the storage to be used or consumed in this state of the
 15 following are hereby specifically exempt from the tax imposed
 16 by this chapter.

17 (7) MISCELLANEOUS EXEMPTIONS.--

18 (ii) Certain electricity or steam uses.--

19 1. Subject to the provisions of subparagraph 4.,
 20 charges for electricity or steam used to operate machinery and
 21 equipment at a fixed location in this state when such
 22 machinery and equipment is used to manufacture, process,
 23 compound, produce, or prepare for shipment items of tangible
 24 personal property for sale, or to operate pollution control
 25 equipment, recycling equipment, maintenance equipment, or
 26 monitoring or control equipment used in such operations are
 27 exempt to the extent provided in this paragraph. ~~If in order~~
 28 ~~to qualify for this exemption,~~ 75 percent or more of the
 29 electricity or steam used at the fixed location ~~is must be~~
 30 used to operate qualifying machinery or equipment, 100 percent
 31 of the charges for electricity or steam used at the fixed

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1 location are exempt. If less than 75 percent but 50 percent or
2 more of the electricity or steam is used at the a fixed
3 location is used to operate qualifying machinery or equipment,
4 ~~then it is presumed that~~ 50 percent of the charges for
5 electricity or steam used at the fixed location are exempt
6 ~~charge for electricity is for nonexempt purposes.~~ If less than
7 50 percent of the electricity or steam used at the fixed
8 location is used to operate qualifying machinery or equipment,
9 none of the charges for electricity or steam used at the fixed
10 location are exempt.

11 2. This exemption applies only to industries
12 classified under SIC Industry Major Group Numbers 10, 12, 13,
13 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34,
14 35, 36, 37, 38, and 39. As used in this paragraph, "SIC" means
15 those classifications contained in the Standard Industrial
16 Classification Manual, 1987, as published by the Office of
17 Management and Budget, Executive Office of the President.

18 3. Possession by a seller of a written certification
19 by the purchaser, certifying the purchaser's entitlement to an
20 exemption permitted by this subsection, relieves the seller
21 from the responsibility of collecting the tax on the
22 nontaxable amounts, and the department shall look solely to
23 the purchaser for recovery of such tax if it determines that
24 the purchaser was not entitled to the exemption.

25 4. Such exemption shall be applied as follows:

26 a. Beginning July 1, 1996, 20 percent of the charges
27 for such electricity shall be exempt.

28 b. Beginning July 1, 1997, 40 percent of the charges
29 for such electricity shall be exempt.

30 c. Beginning July 1, 1998, 60 percent of the charges
31 for such electricity or steam shall be exempt.

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- 1 d. Beginning July 1, 1999, 80 percent of the charges
2 for such electricity or steam shall be exempt.
- 3 e. Beginning July 1, 2000, 100 percent of the charges
4 for such electricity or steam shall be exempt.
- 5 5. Notwithstanding any other provision in this
6 paragraph to the contrary, in order to receive the exemption
7 provided in this paragraph a taxpayer must first register with
8 the WAGES Program Business Registry established by the local
9 WAGES coalition for the area in which the taxpayer is located.
10 Such registration establishes a commitment on the part of the
11 taxpayer to hire WAGES program participants to the maximum
12 extent possible consistent with the nature of their business.
- 13 6.a. In order to determine whether the exemption
14 provided in this paragraph from the tax on charges for
15 electricity or steam has an effect on retaining or attracting
16 companies to this state, the Office of Program Policy Analysis
17 and Governmental Accountability shall periodically monitor and
18 report on the industries receiving the exemption.
- 19 b. The first report shall be submitted no later than
20 January 1, 1997, and must be conducted in such a manner as to
21 specifically determine the number of companies within each SIC
22 Industry Major Group receiving the exemption as of September
23 1, 1996, and the number of individuals employed by companies
24 within each SIC Industry Major Group receiving the exemption
25 as of September 1, 1996.
- 26 c. The second report shall be submitted no later than
27 January 1, 2001, and must be comprehensive in scope, but, at a
28 minimum, must be conducted in such a manner as to specifically
29 determine the number of companies within each SIC Industry
30 Major Group receiving the exemption as of September 1, 2000,
31 the number of individuals employed by companies within each

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1 SIC Industry Major Group receiving the exemption as of
2 September 1, 2000, whether the change, if any, in such number
3 of companies or employees is attributable to the exemption
4 provided in this paragraph, whether it would be sound public
5 policy to continue or discontinue the exemption, and the
6 consequences of doing so.

7 d. Both reports shall be submitted to the President of
8 the Senate, the Speaker of the House of Representatives, the
9 Senate Minority Leader, and the House Minority Leader.

10

11 Exemptions provided to any entity by this subsection shall not
12 inure to any transaction otherwise taxable under this chapter
13 when payment is made by a representative or employee of such
14 entity by any means, including, but not limited to, cash,
15 check, or credit card even when that representative or
16 employee is subsequently reimbursed by such entity.

17 (10) PARTIAL EXEMPTION; MOTOR VEHICLE SOLD TO RESIDENT
18 OF ANOTHER STATE.--The tax collected on the sale of a new or
19 used motor vehicle in this state to a resident of another
20 state shall be an amount equal to the sales tax which would be
21 imposed on such sale under the laws of the state of which the
22 purchaser is a resident, except that such tax shall not exceed
23 the tax that would otherwise be imposed under this chapter.
24 At the time of the sale, the purchaser shall execute a
25 notarized statement of his or her intent to license the
26 vehicle in the state of which the purchaser is a resident
27 within 45 ~~10~~ days of the sale and of the fact of the payment
28 to the State of Florida of a sales tax in an amount equivalent
29 to the sales tax of his or her state of residence and shall
30 submit the statement to the appropriate sales tax collection
31 agency in his or her state of residence. Nothing in this

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1 subsection shall be construed to require the removal of the
2 vehicle from this state following the filing of an intent to
3 license the vehicle in the purchaser's home state if the
4 purchaser licenses the vehicle in his or her home state within
5 45 days after the date of sale.

6 (2) It is the intent of the Legislature that the
7 amendments to s. 212.08(7)(ii), Florida Statutes, 1998
8 Supplement, by this section are remedial in nature and merely
9 clarify existing law.

10 Section 26. Subsection (8) is added to section 213.27,
11 Florida Statutes, to read:

12 213.27 Contracts with debt collection agencies and
13 certain vendors.--

14 (8)(a) The executive director of the department may
15 enter into contracts with private vendors to develop and
16 implement systems to enhance tax collections where
17 compensation to the vendors is funded through increased tax
18 collections. The amount of compensation paid to a vendor
19 shall be based on a percentage of increased tax collections
20 attributable to the system after all administrative and
21 judicial appeals are exhausted, and the total amount of
22 compensation paid to a vendor shall not exceed the maximum
23 amount stated in the contract.

24 (b) A person acting on behalf of the department under
25 a contract authorized by this subsection does not exercise any
26 of the powers of the department, except that the person is an
27 agent of the department for the purposes of developing and
28 implementing a system to enhance tax collection.

29 (c) Disclosure of information under this subsection
30 shall be pursuant to a written agreement between the executive
31 director and the private vendors. The vendors shall be bound

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1 by the same requirements of confidentiality as the department.
2 Breach of confidentiality is a misdemeanor of the first
3 degree, punishable as provided in s. 775.082 or s. 775.083.
4 Section 27. Subsection (1) of section 213.67, Florida
5 Statutes, 1998 Supplement, is amended to read:
6 213.67 Garnishment.--
7 (1) If a person is delinquent in the payment of any
8 taxes, penalties, and interest owed to the department, the
9 executive director or his or her designee may give notice of
10 the amount of such delinquency by registered mail to all
11 persons having in their possession or under their control any
12 credits or personal property, exclusive of wages, belonging to
13 the delinquent taxpayer, or owing any debts to such delinquent
14 taxpayer at the time of receipt by them of such notice.
15 Thereafter, any person who has been notified may not transfer
16 or make any other disposition of such credits, other personal
17 property, or debts until the executive director or his or her
18 designee consents to a transfer or disposition or until 60
19 days after the receipt of such notice, except that the
20 credits, other personal property, or debts which exceed the
21 delinquent amount stipulated in the notice shall not be
22 subject to the provisions of this section, wherever held, in
23 any case in which the taxpayer does not have a prior history
24 of tax delinquencies. If during the effective period of the
25 notice to withhold, any person so notified makes any transfer
26 or disposition of the property or debts required to be
27 withheld hereunder, he or she is liable to the state for any
28 indebtedness owed to the department by the person with respect
29 to whose obligation the notice was given to the extent of the
30 value of the property or the amount of the debts thus
31 transferred or paid if, solely by reason of such transfer or

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1 disposition, the state is unable to recover the indebtedness
2 of the person with respect to whose obligation the notice was
3 given. If the delinquent taxpayer contests the intended levy
4 in circuit court or under chapter 120, the notice under this
5 section remains effective until that final resolution of the
6 contest. Any financial institution receiving such notice will
7 maintain a right of setoff for any transaction involving a
8 debit card occurring on or before the date of receipt of such
9 notice.

10 Section 28. (1) Paragraph (n) of subsection (1) and
11 paragraph (c) of subsection (2) of section 220.03, Florida
12 Statutes, 1998 Supplement, are amended, and paragraph (hh) is
13 added to subsection (1) of said section, to read:

14 220.03 Definitions.--

15 (1) SPECIFIC TERMS.--When used in this code, and when
16 not otherwise distinctly expressed or manifestly incompatible
17 with the intent thereof, the following terms shall have the
18 following meanings:

19 (n) "Internal Revenue Code" means the United States
20 Internal Revenue Code of 1986, as amended and in effect on
21 January 1, 1999 ~~1998~~, except as provided in subsection (3).

22 (hh) "Citrus processing company" means a corporation
23 which, during the 60-month period ending on December 31, 1997,
24 had derived more than 50 percent of its total gross receipts
25 from the processing of citrus products and the manufacture of
26 juices.

27 (2) DEFINITIONAL RULES.--When used in this code and
28 neither otherwise distinctly expressed nor manifestly
29 incompatible with the intent thereof:

30 (c) Any term used in this code shall have the same
31 meaning as when used in a comparable context in the Internal

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1 Revenue Code and other statutes of the United States relating
2 to federal income taxes, as such code and statutes are in
3 effect on January 1, 1999 ~~1998~~. However, if subsection (3) is
4 implemented, the meaning of any term shall be taken at the
5 time the term is applied under this code.

6 (2) This section shall take effect upon this act
7 becoming a law, and the amendments to s. 220.03(1)(n) and
8 (2)(c), Florida Statutes, 1998 Supplement, shall operate
9 retroactively to January 1, 1999.

10 Section 29. Effective January 1, 2000, paragraph (b)
11 of subsection (1) of section 220.151, Florida Statutes, is
12 amended, and, effective upon this act becoming a law,
13 subsection (3) is added to said section, to read:

14 220.151 Apportionment; methods for special
15 industries.--

16 (1)

17 (b) If the principal source of premiums written by an
18 insurance company consists of premiums for reinsurance
19 accepted by it, the tax base of such company shall be
20 apportioned to this state by multiplying such base by a
21 fraction the numerator of which is the sum of:

22 1. Direct premiums written for insurance upon
23 properties and risks in this state, plus

24 2. Premiums written for reinsurance, accepted in
25 respect to properties and risks in this state,

26

27 and the denominator of which is the sum of direct premiums
28 written for insurance upon properties and risks everywhere
29 plus premiums written for reinsurance accepted in respect to
30 properties and risks everywhere. For purposes of this
31 paragraph, premiums written for reinsurance accepted in

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1 respect to properties and risks in this state, whether or not
2 otherwise determinable, shall ~~may, at the election of the~~
3 ~~company, either~~ be determined on the basis of the proportion
4 which premiums written for reinsurance accepted from companies
5 resident in or having a regional home office in the state
6 bears to premiums written for reinsurance accepted from all
7 sources ~~or, alternatively, on the basis of the proportion~~
8 ~~which the sum of the direct premiums written for insurance~~
9 ~~upon properties and risks in this state by each ceding company~~
10 ~~from which reinsurance is accepted bears to the sum of the~~
11 ~~total direct premiums written by each such ceding company for~~
12 ~~the taxable year.~~

13 (3) For any taxable year beginning on or after January
14 1, 1999, a citrus processing company may, if required to
15 apportion its taxable net income pursuant to the three-factor
16 apportionment method set forth in s. 220.15(1), elect to have
17 such apportionment determined for that taxable year solely by
18 use of the sales factor, as set forth in s. 220.15(5). The
19 election shall be made by the filing of a return for the
20 taxable year utilizing this method.

21 Section 30. Section 220.21, Florida Statutes, is
22 amended to read:

23 220.21 Returns and records; regulations.--

24 (1) Every taxpayer liable for the tax imposed by this
25 code shall keep such records, render such statements, make
26 such returns and notices, and comply with such rules and
27 regulations, as the department may from time to time
28 prescribe. The director may require any taxpayer or class of
29 taxpayers, by notice or by regulation, to make such returns
30 and notices, render such statements, and keep such records as
31 the director deems necessary to determine whether such

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1 taxpayer or taxpayers are liable for tax under this code.
2 (2) A taxpayer may choose to file a return required by
3 this code in a form initiated through a telephonic or
4 electronic data interchange using an advanced encrypted
5 transmission by means of the Internet or other suitable
6 transmission. The department shall prescribe by rule the
7 format and instructions necessary for such filing to ensure a
8 full collection of taxes due. The acceptable method of
9 transfer, the method, form, and content of the electronic data
10 interchange, and the means, if any, by which the taxpayer will
11 be provided with an acknowledgment shall be prescribed by the
12 department.

13 Section 31. Subsection (3) of section 220.221, Florida
14 Statutes, is amended to read:

15 220.221 Returns; signing and verification.--

16 (3) Each return or notice required to be filed under
17 this code shall be verified by a ~~written~~ declaration that it
18 is made under the penalties of perjury, and if prepared by
19 someone other than the taxpayer the return shall also contain
20 a declaration by the preparer that it was prepared on the
21 basis of all information of which the preparer had knowledge.

22 Section 32. Paragraphs (a) and (b) of subsection (2)
23 of section 220.222, Florida Statutes, 1998 Supplement, are
24 amended to read:

25 220.222 Returns; time and place for filing.--

26 (2)(a) When a taxpayer has been granted an extension
27 or extensions of time within which to file its federal income
28 tax return for any taxable year, and if the requirements of s.
29 220.32 are met, the filing of a ~~written~~ request for such
30 extension or extensions with the department shall
31 automatically extend the due date of the return required under

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1 this code until 15 days after the expiration of the federal
2 extension or until the expiration of 6 months from the
3 original due date, whichever first occurs.

4 (b) The department may grant an extension or
5 extensions of time for the filing of any return required under
6 this code upon receiving a prior ~~written~~ request therefor if
7 good cause for an extension is shown. However, the aggregate
8 extensions of time under paragraphs (a) and (b) shall not
9 exceed 6 months. No extension granted under this paragraph
10 shall be valid unless the taxpayer complies with the
11 requirements of s. 220.32.

12 Section 33. Subsection (7) is added to section
13 193.052, Florida Statutes, to read:

14 193.052 Preparation and serving of returns.--

15 (7) A property appraiser may accept a tangible
16 personal property tax return in a form initiated through an
17 electronic data interchange. The department shall prescribe by
18 rule the format and instructions necessary for such filing to
19 ensure that all property is properly listed. The acceptable
20 method of transfer, the method, form, and content of the
21 electronic data interchange, the method by which the taxpayer
22 will be provided with an acknowledgment, and the duties of the
23 property appraiser with respect to such filing shall be
24 prescribed by the department. The department's rules shall
25 provide: a uniform format for all counties; that the format
26 shall resemble form DR-405 as closely as possible; and that
27 adequate safeguards for verification of taxpayers' identities
28 are established to avoid filing by unauthorized persons.

29 Section 34. Subsection (16) of section 199.052,
30 Florida Statutes, 1998 Supplement, is amended to read:

31 199.052 Annual tax returns; payment of annual tax.--

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1 (16)(a) Except as provided in paragraph (b), all banks
2 and financial organizations filing annual intangible tax
3 returns for their customers shall file return information for
4 taxes due January 1, 1999, and thereafter using
5 machine-sensible media. The information required by this
6 subsection must be reported by banks or financial
7 organizations on machine-sensible media, using specifications
8 and instructions of the department. A bank or financial
9 organization that demonstrates to the satisfaction of the
10 department that a hardship exists is not required to file
11 intangible tax returns for its customers using
12 machine-sensible media. The department shall adopt rules
13 necessary to administer this paragraph subsection.

14 (b) A taxpayer may choose to file an annual intangible
15 personal property tax return in a form initiated through an
16 electronic data interchange using an advanced encrypted
17 transmission by means of the Internet or other suitable
18 transmission. The department shall prescribe by rule the
19 format and instructions necessary for such filing to ensure a
20 full collection of taxes due. The acceptable method of
21 transfer, the method, form, and content of the electronic data
22 interchange, and the means, if any, by which the taxpayer will
23 be provided with an acknowledgment shall be prescribed by the
24 department.

25 Section 35. Section 443.163, Florida Statutes, is
26 created to read:

27 443.163 Electronic reporting.--An employer may choose
28 to file any report required by this chapter in a form
29 initiated through an electronic data interchange using an
30 advanced encrypted transmission by means of the Internet or
31 other suitable transmission. The division shall prescribe by

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1 rule the format and instructions necessary for such filing to
2 ensure a full collection of contributions due. The acceptable
3 method of transfer, the method, form, and content of the
4 electronic data interchange, and the means, if any, by which
5 the employer will be provided with an acknowledgment, shall be
6 prescribed by the division.

7 Section 36. (1) Whenever the governing body of a
8 municipality that has created a downtown development district
9 pursuant to chapter 65-1090, Laws of Florida, determines that
10 it is necessary to alter, amend, or expand the boundaries of
11 the established district by the inclusion of additional
12 territory or the exclusion of lands from the limits of the
13 established district, in order to revitalize and preserve
14 property values or to prevent deterioration in the original
15 district or its surrounding areas, it shall, by resolution,
16 declare its intention to do so.

17 (2) In the resolution of intent, the governing body
18 shall set a date for a public hearing on adoption of an
19 ordinance altering, amending, or expanding the district and
20 describing the new proposed district. Upon the adoption of
21 the resolution, the governing body shall cause a notice of the
22 public hearing to be published in a newspaper of general
23 circulation published in the municipality, which notice shall
24 be published one time not less than 30 nor more than 60 days
25 prior to the date of the hearing. The notice shall set forth
26 the date, time, and place of the hearing and shall describe
27 the new proposed boundaries of the district. Any citizen,
28 taxpayer, or property owner shall have the right to be heard
29 in opposition to the proposed amendment or expansion of the
30 district. After the public hearing, if the governing body
31 intends to proceed with the amendment or expansion of the

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1 district, it shall, in the manner authorized by law, adopt an
2 ordinance defining the new district. The governing body shall
3 not incorporate land into the district not included in the
4 description contained in the resolution and the notice of
5 public hearing, but it may eliminate any lands from that
6 description when it adopts the ordinance containing the final
7 determination of the boundaries.

8 Section 37. If any provision of this act or the
9 application thereof to any person or circumstance is held
10 invalid, the invalidity shall not affect other provisions or
11 applications of the act which can be given effect without the
12 invalid provision or application, and to this end the
13 provisions of this act are severable.

14 Section 38. Except as otherwise provided herein, this
15 act shall take effect upon becoming a law.

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17

18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:
20 remove from the title of the bill: the entire title
21
22 and insert in lieu thereof:

23 A bill to be entitled
24 An act relating to tax administration; creating
25 s. 166.235, F.S.; providing procedures and
26 requirements for purchasers to obtain a refund
27 of or credit for municipal public service tax
28 collected in error; providing duties of sellers
29 and of municipalities; specifying that these
30 procedures must be exhausted before an action
31 may be brought; providing defenses and time

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1 limitations with respect to such actions;
2 providing application and effect on pending
3 litigation; amending s. 196.1975, F.S.;
4 deleting provisions relating to conditions
5 under which certain corporations qualify as a
6 nonprofit home for the aged for ad valorem tax
7 exemption purposes; specifying nonprofit homes
8 for the aged to which such revision does not
9 apply; repealing s. 198.12, F.S., which
10 requires a personal representative to give
11 preliminary notice of a decedent's death to the
12 Department of Revenue; amending s. 198.13,
13 F.S.; transferring to said section provisions
14 relating to issuance of a certificate by the
15 department that no estate taxes are owed, and
16 providing that said provisions apply when an
17 estate has filed a return; amending s. 198.23,
18 F.S., to conform; amending s. 198.26, F.S.;
19 removing limitations on those estates with
20 respect to which the personal representative
21 may not be discharged until all estate taxes
22 have been paid; specifying that the court may
23 consider the personal representative's
24 affidavit that the estate is not taxable;
25 amending s. 198.32, F.S.; providing that the
26 personal representative of an estate that is
27 not subject to estate tax and not required to
28 file a return may execute an affidavit to that
29 effect; amending s. 198.33, F.S.; conforming
30 provisions relating to when an estate is deemed
31 discharged of liability for estate taxes;

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1 amending s. 198.39, F.S.; providing a penalty
2 for making a false statement in any affidavit
3 under ch. 198, F.S.; amending s. 199.106, F.S.;
4 revising the applicability of provisions which
5 allow a credit against the annual intangible
6 personal property tax for a like tax imposed by
7 another state, a territory of the United
8 States, or the District of Columbia; creating
9 s. 201.165, F.S.; providing such a credit for a
10 like tax paid in such jurisdictions against any
11 excise tax on documents; providing for rules;
12 providing for retroactive application; amending
13 s. 212.02, F.S.; revising provisions relating
14 to the conditions under which the tax on sales,
15 use, and other transactions does not apply to
16 the sale of materials used in repairing a motor
17 vehicle, airplane, or boat; amending s. 212.04,
18 F.S.; specifying applicability to sellers of
19 admissions of the same penalties applicable to
20 dealers in tangible personal property for
21 failure to file returns, pay taxes, or maintain
22 or produce records under ch. 212, F.S.;
23 amending ss. 212.12 and 212.13, F.S.; revising
24 penalties for failure to file returns and for
25 false or fraudulent returns under ch. 212,
26 F.S.; providing penalties for subsequent
27 offenses involving destruction of records with
28 an intent to evade payment of tax; amending s.
29 212.11, F.S.; correcting a reference; creating
30 s. 213.757, F.S.; providing penalties for
31 willful failure to remit tax payments, and for

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1 intentional destruction of records to deprive
2 the state of tax revenues, by a taxpayer's
3 agent; amending s. 212.07, F.S.; providing
4 requirements with respect to sales for resale
5 and documentation thereof; amending s. 212.18,
6 F.S.; providing for issuance of initial and
7 annual resale certificates to active sales tax
8 dealers; amending s. 213.053, F.S.; authorizing
9 the Department of Revenue to disclose certain
10 information regarding registration certificate
11 numbers; directing the department to establish
12 a toll-free number for verification of
13 registration numbers and resale certificates,
14 to establish a system to receive information
15 from dealers regarding certificate numbers of
16 purchasers for resale, and to expand its dealer
17 education program regarding resale
18 certificates; providing appropriations and
19 authorizing positions; amending s. 212.08,
20 F.S.; revising provisions relating to the sales
21 tax exemption for charges for electricity or
22 steam used to operate machinery and equipment
23 under specified conditions; specifying
24 application of a condition relating to
25 percentage of use; providing intent; revising
26 provisions which specify application of tax to
27 the sale of a motor vehicle in this state to a
28 resident of another state; revising the time
29 period within which the purchaser must license
30 the vehicle in his or her home state and
31 providing construction regarding removal of the

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1 vehicle from this state; amending s. 213.27,
2 F.S.; authorizing the executive director of the
3 department to contract with vendors to develop
4 and implement systems to enhance tax
5 collections where compensation to the vendor is
6 funded through increased tax collections;
7 providing restrictions; providing for
8 application of confidentiality requirements and
9 providing a penalty; amending s. 213.67, F.S.;
10 specifying the amount of credits, other
11 personal property, or debts of a delinquent
12 taxpayer held by another person which are
13 subject to garnishment when the taxpayer has no
14 prior tax delinquencies; amending s. 220.03,
15 F.S.; updating references to the Internal
16 Revenue Code for corporate income tax purposes;
17 defining "citrus processing company"; amending
18 s. 220.151, F.S.; revising the method for
19 apportioning to this state for corporate income
20 tax the tax base of an insurance company whose
21 principal source of premiums is from
22 reinsurance policies; allowing certain citrus
23 processing companies to elect to determine the
24 apportionment of their adjusted federal income
25 to this state solely by use of the sales
26 factor; amending ss. 220.21, 220.221, and
27 220.222, F.S.; authorizing filing of corporate
28 income tax returns in a form initiated through
29 a telephonic or electronic data interchange;
30 providing duties of the department; amending
31 ss. 193.052 and 199.052, F.S.; authorizing

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1 filing of tangible personal property and
2 intangible personal property returns in a form
3 initiated through electronic data interchange;
4 providing duties of the department; creating s.
5 443.163, F.S.; authorizing filing of required
6 reports relating to unemployment compensation
7 by employers in such form; providing duties of
8 the Division of Unemployment Compensation;
9 providing procedures for the alteration,
10 amendment, or expansion of the boundaries of
11 certain downtown development districts;
12 providing for notice and public hearing;
13 providing for severability; providing effective
14 dates.

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