

By the Committee on Fiscal Resource and Senator Horne

314-1730A-00

1 A bill to be entitled
2 An act relating to taxation; amending s.
3 95.091, F.S.; specifying the time period within
4 which the Department of Revenue and Department
5 of Business and Professional Regulation may
6 determine and assess the amount of certain
7 taxes, penalties, or interest due beginning
8 July 1, 2002; conforming a cross-reference;
9 amending s. 106.265, F.S.; providing that the
10 Florida Elections Commission, rather than the
11 Department of Revenue, shall have
12 responsibility for collecting civil penalties
13 for violation of ch. 104 or ch. 106, F.S.;
14 amending ss. 175.111, 185.09, F.S.; removing a
15 requirement that insurers subject to a premium
16 tax for a municipal or special district
17 firefighter pension plan or a municipal police
18 pension plan file an annual premium receipt
19 report with the Division of Retirement;
20 amending s. 213.053, F.S.; authorizing the
21 Department of Revenue to share information
22 regarding such reports with the Department of
23 Management Services and to share certain
24 identifying information with the Department of
25 Highway Safety and Motor Vehicles; amending s.
26 203.01, F.S.; authorizing the Department of
27 Revenue to require quarterly, semiannual, or
28 annual returns for the tax on gross receipts
29 for utility services under certain conditions;
30 amending ss. 206.09, 206.095, F.S.; authorizing
31 the department to suspend a requirement for

1 certain reports from carriers transporting, or
2 terminal operators handling, motor fuel and
3 similar products, under certain conditions;
4 amending s. 212.051, F.S.; including specialty
5 chemicals and bioaugmentation products within
6 the exemption for equipment and machinery used
7 for pollution control in connection with the
8 manufacture of items of tangible personal
9 property for sale; providing definitions;
10 amending s. 212.08, F.S.; providing an
11 exemption for use of a specified percentage of
12 nonresidual fuel to produce electrical or steam
13 energy; applying the exemption for certain
14 repair and labor charges to an additional SIC
15 Industry Major Group Number; providing that
16 such exemption is remedial; amending s. 212.06,
17 F.S.; clarifying the exemption from the indexed
18 tax on manufactured asphalt for asphalt used
19 for government public works projects;
20 specifying that the exemption includes federal
21 projects; amending s. 213.015, F.S., relating
22 to the Taxpayer's Bill of Rights; providing a
23 right to be treated in a professional manner by
24 the Department of Revenue; providing a right to
25 an explanation for the reason for audit
26 selection; amending s. 213.21, F.S., relating
27 to conferences; specifying the circumstances
28 under which a taxpayer is deemed to have shown
29 reasonable cause for noncompliance when relying
30 on written advice from the Department of
31 Revenue; repealing s. 213.235(6), F.S., which

1 relates to application of the annual rate of
2 interest applicable to tax payment deficiencies
3 as determined under that section; amending s.
4 213.27, F.S.; authorizing the department to
5 contract with public or private vendors to
6 develop and implement a voluntary system for
7 sales and use tax collection and
8 administration; providing for compensation;
9 requiring reports; providing for application of
10 provisions of ch. 212, F.S., to system users;
11 providing for maintenance of confidentiality of
12 certain information; providing a penalty;
13 amending s. 220.62, F.S.; adding savings
14 association holding companies to the definition
15 of the term "savings association"; providing
16 that section 1 of chapter 98-187, Laws of
17 Florida, applies retroactively to certain term
18 obligations; providing effective dates.

19

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

21

22 Section 1. Paragraph (a) of subsection (3) of section
23 95.091, Florida Statutes, is amended to read:

24 95.091 Limitation on actions to collect taxes.--

25 (3)(a) With the exception of taxes levied under
26 chapter 198 and tax adjustments made pursuant to s. 220.23,
27 the Department of Revenue may determine and assess the amount
28 of any tax, penalty, or interest due under any tax enumerated
29 in s. 72.011 which it has authority to administer and the
30 Department of Business and Professional Regulation may
31 determine and assess the amount of any tax, penalty, or

1 interest due under any tax enumerated in s. 72.011 which it
2 has authority to administer:

3 1.a. For taxes due before July 1, 1999, within 5 years
4 after the date the tax is due, any return with respect to the
5 tax is due, or such return is filed, whichever occurs later;
6 and for taxes due on or after July 1, 1999, within 3 years
7 after the date the tax is due, any return with respect to the
8 tax is due, or such return is filed, whichever occurs later;

9 b. Effective July 1, 2002, notwithstanding
10 sub-subparagraph a., within 3 years after the date the tax is
11 due, any return with respect to the tax is due, or such return
12 is filed, whichever occurs later;

13 2. For taxes due before July 1, 1999, within 6 years
14 after the date the taxpayer either makes a substantial
15 underpayment of tax, or files a substantially incorrect
16 return;

17 3. At any time while the right to a refund or credit
18 of the tax is available to the taxpayer;

19 4. For taxes due before July 1, 1999, at any time
20 after the taxpayer has filed a grossly false return;

21 5. At any time after the taxpayer has failed to make
22 any required payment of the tax, has failed to file a required
23 return, or has filed a fraudulent return, except that for
24 taxes due on or after July 1, 1999, the limitation prescribed
25 in subparagraph 1.~~sub-subparagraph a.~~ applies if the taxpayer
26 has disclosed in writing the tax liability to the department
27 before the department has contacted the taxpayer; or

28 6. In any case in which there has been a refund of tax
29 erroneously made for any reason:

30 a. For refunds made before July 1, 1999, within 5
31 years after making such refund; and

1 b. For refunds made on or after July 1, 1999, within 3
2 years after making such refund,

3
4 or at any time after making such refund if it appears that any
5 part of the refund was induced by fraud or the
6 misrepresentation of a material fact.

7 Section 2. Subsection (2) of section 106.265, Florida
8 Statutes, is amended to read:

9 106.265 Civil penalties.--

10 (2) If any person, political committee, committee of
11 continuous existence, or political party fails or refuses to
12 pay to the commission any civil penalties assessed pursuant to
13 the provisions of this section, the commission ~~Department of~~
14 ~~Revenue~~ shall be responsible for collecting the civil
15 penalties resulting from such action.

16 Section 3. Section 175.111, Florida Statutes, is
17 amended to read:

18 175.111 Certified copy of ordinance or resolution
19 filed; insurance companies' annual report of premiums;
20 duplicate files; book of accounts.--For any municipality,
21 special fire control district, chapter plan, local law
22 municipality, local law special fire control district, or
23 local law plan under this chapter, whenever any municipality
24 passes an ordinance or whenever any special fire control
25 district passes a resolution establishing a chapter plan or
26 local law plan assessing and imposing the taxes authorized in
27 s. 175.101, a certified copy of such ordinance or resolution
28 shall be deposited with the division. Thereafter every
29 insurance company, association, corporation, or other insurer
30 carrying on the business of property insurance on real or
31 personal property, on or before the succeeding March 1 after

1 date of the passage of the ordinance or resolution, shall
2 report fully in writing and under oath to the division and the
3 Department of Revenue a just and true account of all premiums
4 by such insurer received for property insurance policies
5 covering or insuring any real or personal property located
6 within the corporate limits of each such municipality or
7 special fire control district during the period of time
8 elapsing between the date of the passage of the ordinance or
9 resolution and the end of the calendar year. The report shall
10 include the code designation as prescribed by the division for
11 each piece of insured property, real or personal, located
12 within the corporate limits of each municipality and within
13 the legally defined boundaries of each special fire control
14 district. The aforesaid insurer shall annually thereafter, on
15 March 1, file with ~~the division and~~ the Department of Revenue
16 a similar report covering the preceding year's premium
17 receipts, and every such insurer at the same time of making
18 such reports shall pay to the Department of Revenue the amount
19 of the tax hereinbefore mentioned. Every insurer engaged in
20 carrying on such insurance business in the state shall keep
21 accurate books of accounts of all such business done by it
22 within the corporate limits of each such municipality and
23 within the legally defined boundaries of each such special
24 fire control district, and in such manner as to be able to
25 comply with the provisions of this chapter. Based on the
26 insurers' reports of premium receipts, the division shall
27 prepare a consolidated premium report and shall furnish to any
28 municipality or special fire control district requesting the
29 same a copy of the relevant section of that report.

30 Section 4. Section 185.09, Florida Statutes, is
31 amended to read:

1 185.09 Report of premiums paid; date tax payable.--For
2 any municipality, chapter plan, local law municipality, or
3 local law plan under this chapter, whenever any municipality
4 passes an ordinance establishing a chapter plan or local law
5 plan and assessing and imposing the tax authorized in s.
6 185.08, a certified copy of such ordinance shall be deposited
7 with the division; and thereafter every insurance company,
8 corporation, or other insurer carrying on the business of
9 casualty insuring, on or before the succeeding March 1 after
10 date of the passage of the ordinance, shall report fully in
11 writing to the division and the Department of Revenue a just
12 and true account of all premiums received by such insurer for
13 casualty insurance policies covering or insuring any property
14 located within the corporate limits of such municipality
15 during the period of time elapsing between the date of the
16 passage of the ordinance and the end of the calendar year. The
17 aforesaid insurer shall annually thereafter, on March 1, file
18 with ~~the division and~~ the Department of Revenue a similar
19 report covering the preceding year's premium receipts. Every
20 such insurer shall, at the time of making such report, pay to
21 the Department of Revenue the amount of the tax heretofore
22 mentioned. Every insurer engaged in carrying on a general
23 casualty insurance business in the state shall keep accurate
24 books of account of all such business done by it within the
25 limits of such incorporated municipality in such a manner as
26 to be able to comply with the provisions of this chapter.
27 Based on the insurers' reports of premium receipts, the
28 division shall prepare a consolidated premium report and shall
29 furnish to any municipality requesting the same a copy of the
30 relevant section of that report.
31

1 Section 5. Paragraphs (r) and (s) are added to
2 subsection (7) of section 213.053, Florida Statutes, to read:

3 213.053 Confidentiality and information sharing.--

4 (7) Notwithstanding any other provision of this
5 section, the department may provide:

6 (r) Information relative to the returns required by
7 ss. 175.111 and 185.09 to the Department of Management
8 Services in the conduct of its official duties. The Department
9 of Management Services is, in turn, authorized to disclose
10 payment information to a governmental agency as necessary in
11 the administration of chapters 175 and 185.

12 (s) Names, addresses, and federal employer
13 identification numbers, or similar identifiers, to the
14 Department of Highway Safety and Motor Vehicles for use in the
15 conduct of its official duties.

16
17 Disclosure of information under this subsection shall be
18 pursuant to a written agreement between the executive director
19 and the agency. Such agencies, governmental or
20 nongovernmental, shall be bound by the same requirements of
21 confidentiality as the Department of Revenue. Breach of
22 confidentiality is a misdemeanor of the first degree,
23 punishable as provided by s. 775.082 or s. 775.083.

24 Section 6. Effective January 1, 2001, (1) of section
25 203.01, Florida Statutes, is amended to read:

26 203.01 Tax on gross receipts for utility services.--

27 (1)(a) Every person that receives payment for any
28 utility service shall report by the last day of each month to
29 the Department of Revenue, under oath of the secretary or some
30 other officer of such person, the total amount of gross
31 receipts derived from business done within this state, or

1 between points within this state, for the preceding month and,
2 at the same time, shall pay into the State Treasury an amount
3 equal to a percentage of such gross receipts at the rate set
4 forth in paragraph (b). Such collections shall be certified
5 by the Comptroller upon the request of the State Board of
6 Education.

7 (b) Beginning July 1, 1992, and thereafter, the rate
8 shall be 2.5 percent.

9 (c) Any person who purchases, installs, rents, or
10 leases a telephone system or telecommunication system for his
11 or her own use to provide that person with telephone service
12 or telecommunication service which is a substitute for any
13 telephone company switched service or a substitute for any
14 dedicated facility by which a telephone company provides a
15 communication path shall register with the Department of
16 Revenue and pay into the State Treasury a yearly amount equal
17 to a percentage of the actual cost of operating such system at
18 the rate set forth in paragraph (b). "Actual cost" includes,
19 but is not limited to, depreciation, interest, maintenance,
20 repair, and other expenses directly attributable to the
21 operation of such system. For purposes of this paragraph, the
22 depreciation expense to be included in actual cost shall be
23 the depreciation expense claimed for federal income tax
24 purposes. The total amount of any payment required by a lease
25 or rental contract or agreement shall be included within the
26 actual cost. The provisions of this paragraph do not apply to
27 the use by any local telephone company or any
28 telecommunication carrier of its own telephone system or
29 telecommunication system to conduct a telecommunication
30 service for hire or to the use of any radio system operated by
31 any county or municipality or by the state or any political

1 subdivision thereof. If a system described in this paragraph
2 is located in more than one state, the actual cost of such
3 system for purposes of this paragraph shall be the actual cost
4 of the system's equipment located in Florida. The term
5 "telecommunications carrier" specifically includes cellular
6 telephone carriers and other radio common carriers.

7 (d) Electricity produced by cogeneration or by small
8 power producers which is transmitted and distributed by a
9 public utility between two locations of a customer of the
10 utility pursuant to s. 366.051 is subject to the tax imposed
11 by this section. The tax shall be applied to the cost price
12 of such electricity as provided in s. 212.02(4) and shall be
13 paid each month by the producer of such electricity.

14 (e) Electricity produced by cogeneration or by small
15 power producers during the 12-month period ending June 30 of
16 each year which is in excess of nontaxable electricity
17 produced during the 12-month period ending June 30, 1990, is
18 subject to the tax imposed by this section. The tax shall be
19 applied to the cost price of such electricity as provided in
20 s. 212.02(4) and shall be paid each month, beginning with the
21 month in which total production exceeds the production of
22 nontaxable electricity for the 12-month period ending June 30,
23 1990. For purposes of this paragraph, "nontaxable
24 electricity" means electricity produced by cogeneration or by
25 small power producers which is not subject to tax under
26 paragraph (d). Taxes paid pursuant to paragraph (d) may be
27 credited against taxes due under this paragraph. Electricity
28 generated as part of an industrial manufacturing process which
29 manufactures products from phosphate rock, raw wood fiber,
30 paper, citrus or any agricultural product shall not be subject
31 to the tax imposed by this paragraph. "Industrial

1 manufacturing process" means the entire process conducted at
2 the location where the process takes place.

3 (f) Any person other than a cogenerator or small power
4 producer described in paragraph (e) who produces for his or
5 her own use electrical energy which is a substitute for
6 electrical energy produced by an electric utility as defined
7 in s. 366.02 is subject to the tax imposed by this section.
8 The tax shall be applied to the cost price of such electrical
9 energy as provided in s. 212.02(4) and shall be paid each
10 month. The provisions of this paragraph do not apply to any
11 electrical energy produced and used by an electric utility.

12 (g) Notwithstanding any other provision of this
13 chapter, with the exception of a telephone or
14 telecommunication system described in paragraph (c), the
15 department may require:

16 1. A quarterly return and payment when the tax
17 remitted for the preceding four calendar quarters did not
18 exceed \$1,000;

19 2. A semiannual return and payment when the tax
20 remitted for the preceding four calendar quarters did not
21 exceed \$500; or

22 3. An annual return and payment when the tax remitted
23 for the preceding four calendar quarters did not exceed \$100.

24 Section 7. Effective July 1, 2000, section 206.09,
25 Florida Statutes, is amended to read:

26 206.09 Reports from carriers transporting motor fuel
27 or similar products.--

28 (1) Every railroad company, pipeline company, water
29 transportation company, private carrier, and common carrier
30 transporting motor fuel, casinghead gasoline, natural
31 gasoline, naphtha, or diesel fuel distillate, either in

1 interstate or intrastate or foreign commerce, to points within
2 Florida, and every person transporting motor fuel, casinghead
3 gasoline, natural gasoline, naphtha, or diesel fuel
4 distillate, by whatever manner, to a point in Florida from any
5 point outside of said state, shall file monthly returns
6 setting forth:

7 (a) The name under which such person is transacting
8 business within the state.

9 (b) The location with street number address of such
10 person's principal office or place of business within the
11 state.

12 (c) The name, federal employer identification number
13 or, if such number is not available, the social security
14 number, and business address of the owner or the names and
15 addresses of the partners, if such person is a partnership, or
16 the principal officers, if such person is a corporation or
17 association.

18 (2) Such person or company shall report under oath to
19 the department on forms prescribed by the department all
20 deliveries of motor fuel, casinghead gasoline, natural
21 gasoline, naphtha, or diesel fuel distillate so made to points
22 within the state.

23 (3) Such reports shall cover monthly periods and be
24 submitted within 20 days after the close of the month covered
25 by the report and shall show:

26 (a) The name, federal employer identification number
27 or, if such number is not available, the social security
28 number, and complete business address of the person to whom
29 the deliveries of motor fuel, casinghead gasoline, natural
30 gasoline, naphtha, or diesel fuel distillate have actually and
31 in fact been made;

1 (b) The name, federal employer identification number
2 or, if such number is not available, the social security
3 number, and complete business address of the originally named
4 consignee, if motor fuel, casinghead gasoline, natural
5 gasoline, naphtha, or diesel fuel distillate has been
6 delivered to any person other than the originally named
7 consignee;

8 (c) The municipality and state of origin, the
9 municipality, county, and state of delivery, the date of
10 delivery, and the number and initials of each tank car and the
11 number of gallons contained therein, if shipped by rail;

12 (d) The name of the boat, barge, or vessel and the
13 number of gallons contained therein, if shipped by water;

14 (e) The company unit number of each tank truck and the
15 number of gallons contained therein, if transported by motor
16 truck;

17 (f) If delivered by other means, the manner in which
18 such delivery is made; and

19 (g) Such other additional information relative to
20 shipments of motor fuel as the department may require.

21 (4) The department may suspend the reporting
22 requirements of this section if substantially the same data is
23 filed with the Internal Revenue Service and provided to the
24 department through a national information reporting system.

25 ~~(5)(4)~~ If any such person or company required to file
26 under this section fails to make a complete report, the
27 department shall impose, in addition to any other penalty or
28 interest due, a penalty in the amount of \$200.

29 Section 8. Effective July 1, 2000, section 206.095,
30 Florida Statutes, is amended to read:

31 206.095 Reports from terminal operators.--

1 (1) Every terminal operator who stores, handles, or
2 transfers motor fuel, casinghead gasoline, natural gasoline,
3 naphtha, diesel fuel, kerosene, or other middle distillates
4 shall file a report on forms prescribed by the department.
5 The report shall be filed on a monthly basis within 20 days
6 after the close of the month covered by the report and shall
7 show:

8 (a) The name, address, and license number of the
9 terminal supplier, importer, or exporter storing or
10 transferring such product.

11 (b) The name of the boat, barge, or vessel
12 transporting the product to the terminal.

13 (c) The number of gallons and type of product which is
14 being stored.

15 (d) Such other additional information relative to
16 shipments and storage of products as the department may
17 require.

18 (2) The department may suspend the reporting
19 requirements of this section if substantially the same data is
20 filed with the Internal Revenue Service and provided to the
21 department through a national information reporting system.

22 ~~(3)(2)~~ If any terminal operator fails to make a
23 complete report, the department shall impose, in addition to
24 any other penalty and interest due, a penalty in the amount of
25 \$100.

26 Section 9. Effective July 1, 2000, section 212.051,
27 Florida Statutes, is amended to read:

28 212.051 Equipment, or machinery, and other materials
29 for pollution control; not subject to sales or use tax.--

30 (1) Notwithstanding any provision to the contrary,
31 sales, use, or privilege taxes shall not be collected with

1 respect to any facility, device, fixture, equipment, ~~or~~
2 machinery, specialty chemical, or bioaugmentation product used
3 primarily for the control or abatement of pollution or
4 contaminants in manufacturing, processing, compounding, or
5 producing for sale items of tangible personal property at a
6 fixed location, or any structure, machinery, or equipment
7 installed in the reconstruction or replacement of such
8 facility, device, fixture, equipment, or machinery. To
9 qualify, such facility, device, fixture, equipment, ~~or~~
10 structure, specialty chemical, or bioaugmentation product must
11 be used, installed, or constructed to meet a law implemented
12 by, or a condition of a permit issued by, the Department of
13 Environmental Protection; however, such exemption shall not be
14 allowed unless the purchaser signs a certificate stating that
15 the facility, device, fixture, equipment, ~~or~~ structure,
16 specialty chemical, or bioaugmentation product to be exempted
17 is required to meet such law or condition.

18 (2) Equipment, machinery, or materials required to
19 meet any law implemented by, or any condition of a permit
20 issued by, the Department of Environmental Protection that are
21 purchased for the monitoring, prevention, abatement, or
22 control of pollution or contaminants at privately owned or
23 operated landfills or construction and demolition debris
24 disposal facilities shall be exempt from taxation as otherwise
25 imposed by this chapter; however, such exemption shall not be
26 allowed unless the purchaser signs a certificate stating that
27 the equipment, machinery, or materials to be exempted are
28 required to meet such law or condition. This exemption does
29 not include solid waste collection vehicles, compactors,
30 graders, or other earthmoving equipment. For the purposes of
31 this section, the term "specialty chemicals" means those

1 chemicals used to enhance or further treat waste water
2 including, but not limited to, defoamers, nutrients, tertiary,
3 and color-polymers, and the term "bioaugmentation products"
4 means the micro-organisms used in waste treatment plants to
5 break down solids and consume organic matter.

6 Section 10. Paragraph (c) of subsection (1) of section
7 212.06, Florida Statutes, is amended to read:

8 212.06 Sales, storage, use tax; collectible from
9 dealers; "dealer" defined; dealers to collect from purchasers;
10 legislative intent as to scope of tax.--

11 (1)

12 (c)1. Notwithstanding the provisions of paragraph (b),
13 the use tax on asphalt manufactured for one's own use shall be
14 calculated with respect to paragraph (b) only upon the cost of
15 materials which become a component part or which are an
16 ingredient of the finished asphalt and upon the cost of the
17 transportation of such components and ingredients. In
18 addition, an indexed tax of 38 cents per ton of such
19 manufactured asphalt shall be due at the same time and in the
20 same manner as taxes due pursuant to paragraph (b). Beginning
21 July 1, 1989, the indexed tax shall be adjusted each July 1 to
22 an amount, rounded to the nearest cent, equal to the product
23 of 38 cents multiplied by a fraction, the numerator of which
24 is the annual average of the "materials and components for
25 construction" series of the producer price index, as
26 calculated and published by the United States Department of
27 Labor, Bureau of Statistics, for the previous calendar year,
28 and the denominator of which is the annual average of said
29 series for calendar year 1988.

30 2. Beginning July 1, 1999,the indexed tax imposed by
31 this paragraph on ~~shall not apply to~~ manufactured asphalt

1 which is used for any federal, state, or local government
2 public works project shall be reduced by 20 percent. ~~Beginning~~
3 ~~July 1, 1999, 20 percent of such amount is exempt.~~

4 Section 11. It is the intent of the Legislature that
5 the amendment to section 212.06(1)(c), Florida Statutes, made
6 by this act is remedial in nature and merely clarifies
7 existing law.

8 Section 12. Effective July 1, 2000, paragraph (c) of
9 subsection (5) and paragraph (eee) of subsection (7) of
10 section 212.08, Florida Statutes, 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 (5) EXEMPTIONS; ACCOUNT OF USE.--

18 (c) Machinery and equipment used in production of
19 electrical or steam energy.--

20 1. The purchase of machinery and equipment for use at
21 a fixed location which machinery and equipment are necessary
22 in the production of electrical or steam energy resulting from
23 the burning of boiler fuels other than residual oil is exempt
24 from the tax imposed by this chapter. Such electrical or
25 steam energy must be primarily for use in manufacturing,
26 processing, compounding, or producing for sale items of
27 tangible personal property in this state. Use of a de minimis
28 amount of residual fuel to facilitate the burning of
29 nonresidual fuel shall not reduce the exemption otherwise
30 available under this paragraph.

31

1 2. In facilities where machinery and equipment are
2 necessary to burn both residual and nonresidual fuels, the
3 exemption shall be prorated. Such proration shall be based
4 upon the production of electrical or steam energy from
5 nonresidual fuels as a percentage of electrical or steam
6 energy from all fuels. If it is determined that 15 percent or
7 less of all electrical or steam energy generated was produced
8 by burning nonresidual fuel, the exemption shall apply.

9 Purchasers claiming a partial exemption shall obtain such
10 exemption by refund of taxes paid, or as otherwise provided in
11 the department's rules.

12 3. The department may adopt rules that provide for
13 implementation of this exemption. Purchasers of machinery and
14 equipment qualifying for the exemption provided in this
15 paragraph shall furnish the department with an affidavit
16 stating that the item or items to be exempted are for the use
17 designated herein. Any person furnishing a false affidavit to
18 the vendor for the purpose of evading payment of any tax
19 imposed under this chapter shall be subject to the penalty set
20 forth in s. 212.085 and as otherwise provided by law.

21 Purchasers with self-accrual authority shall maintain all
22 documentation necessary to prove the exempt status of
23 purchases.

24 (7) MISCELLANEOUS EXEMPTIONS.--

25 (eee) Certain repair and labor charges.--

26 1. Subject to the provisions of subparagraphs 2. and
27 3., there is exempt from the tax imposed by this chapter all
28 labor charges for the repair of, and parts and materials used
29 in the repair of and incorporated into, industrial machinery
30 and equipment that ~~which~~ is used for the manufacture,
31 processing, compounding, or production, or production and

1 shipping ~~of~~ items of tangible personal property at a fixed
2 location within this state.

3 2. This exemption applies only to industries
4 classified under SIC Industry Major Group Numbers 10, 12, 13,
5 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34,
6 35,36, 37, 38, and 39 and Industry Group Number 212. As used
7 in this subparagraph, "SIC" means those classifications
8 contained in the Standard Industrial Classification Manual,
9 1987, as published by the Office of Management and Budget,
10 Executive Office of the President.

11 3. This exemption shall be applied as follows:

12 a. Beginning July 1, 1999, 25 percent of such charges
13 for repair parts and labor shall be exempt.

14 b. Beginning July 1, 2000, 50 percent of such charges
15 for repair parts and labor shall be exempt.

16 c. Beginning July 1, 2001, 75 percent of such charges
17 for repair parts and labor shall be exempt.

18 d. Beginning July 1, 2002, 100 percent of such charges
19 for repair parts and labor shall be exempt.

20
21 Exemptions provided to any entity by this subsection shall not
22 inure to any transaction otherwise taxable under this chapter
23 when payment is made by a representative or employee of such
24 entity by any means, including, but not limited to, cash,
25 check, or credit card even when that representative or
26 employee is subsequently reimbursed by such entity.

27 Section 13. The amendment to section 212.08(7)(eee)2.,
28 Florida Statutes, is remedial in nature and shall have the
29 force and effect as if SIC Code 35 had been included from July
30 1, 1999.

31

1 Section 14. Effective July 1, 2000, subsections (3)
2 and (5) of section 213.015, Florida Statutes, are amended to
3 read:

4 213.015 Taxpayer rights.--There is created a Florida
5 Taxpayer's Bill of Rights to guarantee that the rights,
6 privacy, and property of Florida taxpayers are adequately
7 safeguarded and protected during tax assessment, collection,
8 and enforcement processes administered under the revenue laws
9 of this state. The Taxpayer's Bill of Rights compiles, in one
10 document, brief but comprehensive statements which explain, in
11 simple, nontechnical terms, the rights and obligations of the
12 Department of Revenue and taxpayers. The rights afforded
13 taxpayers to assure that their privacy and property are
14 safeguarded and protected during tax assessment and collection
15 are available only insofar as they are implemented in other
16 parts of the Florida Statutes or rules of the Department of
17 Revenue. The rights so guaranteed Florida taxpayers in the
18 Florida Statutes and the departmental rules are:

19 (3) The right to be represented or advised by counsel
20 or other qualified representatives at any time in
21 administrative interactions with the department, the right to
22 procedural safeguards with respect to recording of interviews
23 during tax determination or collection processes conducted by
24 the department, the right to be treated in a professional
25 manner by the Department of Revenue personnel, and the right
26 to have audits, inspections of records, and interviews
27 conducted at a reasonable time and place except in criminal
28 and internal investigations (see ss. 198.06, 199.218,
29 201.11(1), 203.02, 206.14, 211.125(3), 211.33(3), 212.0305(3),
30 212.12(5)(a), (6)(a), and (13), 212.13(5), 213.05,
31 213.21(1)(a) and (c), and 213.34).

1 (5) The right to obtain simple, nontechnical
2 statements that which explain the reason for audit selection
3 and the procedures, remedies, and rights available during
4 audit, appeals, and collection proceedings, including, but not
5 limited to, the rights pursuant to this Taxpayer's Bill of
6 Rights and the right to be provided with a narrative
7 description which explains the basis of audit changes,
8 proposed assessments, assessments, and denials of refunds;
9 identifies any amount of tax, interest, or penalty due; and
10 states the consequences of the taxpayer's failure to comply
11 with the notice.

12 Section 15. Effective July 1, 2000, subsections (2)
13 and (3) of section 213.21, Florida Statutes, are amended to
14 read:

15 213.21 Informal conferences; compromises.--

16 (2)(a) The executive director of the department or his
17 or her designee is authorized to enter into closing agreements
18 with any taxpayer settling or compromising the taxpayer's
19 liability for any tax, interest, or penalty assessed under any
20 of the chapters specified in s. 72.011(1). Such agreements
21 shall be in writing when the amount of tax, penalty, or
22 interest compromised exceeds \$30,000 or for lesser amounts
23 when the department deems it appropriate or when requested by
24 the taxpayer. When a written closing agreement has been
25 approved by the department and signed by the executive
26 director or his or her designee and the taxpayer, it shall be
27 final and conclusive; and, except upon a showing of fraud or
28 misrepresentation of material fact or except as to adjustments
29 pursuant to ss. 198.16 and 220.23, no additional assessment
30 may be made by the department against the taxpayer for the
31 tax, interest, or penalty specified in the closing agreement

1 for the time period specified in the closing agreement, and
2 the taxpayer shall not be entitled to institute any judicial
3 or administrative proceeding to recover any tax, interest, or
4 penalty paid pursuant to the closing agreement. The
5 department is authorized to delegate to the executive director
6 the authority to approve any such closing agreement resulting
7 in a tax reduction of \$250,000 or less.

8 (b) Notwithstanding the provisions of paragraph (a),
9 for the purpose of facilitating the settlement and
10 distribution of an estate held by a personal representative,
11 the executive director of the department may, on behalf of the
12 state, agree upon the amount of taxes at any time due or to
13 become due from such personal representative under the
14 provisions of chapter 198; and payment in accordance with such
15 agreement shall be full satisfaction of the taxes to which the
16 agreement relates.

17 (c) Notwithstanding paragraph (a), for the purpose of
18 compromising the liability of any taxpayer for tax or interest
19 on the grounds of doubt as to liability based on the
20 taxpayer's reasonable reliance on a written determination
21 issued by the department as described in paragraph (3)(b), the
22 department may compromise the amount of such tax or interest
23 liability resulting from such reasonable reliance.

24 (3)(a) A taxpayer's liability for any tax or interest
25 specified in s. 72.011(1) may be compromised by the department
26 upon the grounds of doubt as to liability for or
27 collectibility of such tax or interest. A taxpayer's liability
28 for penalties under any of the chapters specified in s.
29 72.011(1) may be settled or compromised if it is determined by
30 the department that the noncompliance is due to reasonable
31 cause and not to willful negligence, willful neglect, or

1 fraud. A taxpayer who establishes reasonable reliance on the
2 written advice issued by the department to the taxpayer will
3 be deemed to have shown reasonable cause for the
4 noncompliance.In addition, a taxpayer's liability for
5 penalties under any of the chapters specified in s. 72.011(1)
6 in excess of 25 percent of the tax shall be settled or
7 compromised if the department determines that the
8 noncompliance is due to reasonable cause and not to willful
9 negligence, willful neglect, or fraud. The department shall
10 maintain records of all compromises, and the records shall
11 state the basis for the compromise. The records of compromise
12 under this paragraph shall not be subject to disclosure
13 pursuant to s. 119.07(1) and shall be considered confidential
14 information governed by the provisions of s. 213.053.

15 (b) Doubt as to liability of a taxpayer for tax and
16 interest exists if the taxpayer demonstrates that he or she
17 reasonably relied on a written determination of the department
18 in the following circumstances:

19 1. The audit workpapers clearly show that the same
20 issue was considered in a prior audit of the taxpayer
21 conducted by or on behalf of the department and, after
22 consideration of the issue, the department's auditor
23 determined that no assessment was appropriate in regard to
24 that issue.

25 2. The same issue was raised in a prior audit of the
26 taxpayer and during the informal protest of the proposed
27 assessment the department issued a notice of decision
28 withdrawing the issue from the assessment.

29 3. The taxpayer received a technical assistance
30 advisement pursuant to s. 213.22 in regard to the issue.

31

1 The circumstances listed in this paragraph are not intended to
2 be the only circumstances in which doubt as to liability
3 exists. Nothing contained in this section shall interfere with
4 the state's ability to structure a remedy to cure a judicially
5 determined constitutional defect in a tax law.

6 (c) A taxpayer shall not be deemed to have reasonably
7 relied on a written determination of the department under any
8 of the following circumstances:

9 1. The taxpayer misrepresented material facts or did
10 not fully disclose material facts at the time the written
11 determination was issued.

12 2. The specific facts and circumstances have changed
13 in such a material manner that the written determination no
14 longer applies.

15 3. The statutes or regulations on which the
16 determination was based have been materially revised or a
17 published judicial opinion constituting precedent in the
18 taxpayer's jurisdiction has overruled the department's
19 determination on the issue.

20 4. The department has informed the taxpayer in writing
21 that its previous written determination has been revised and
22 should no longer be relied upon.

23 (d)~~(b)~~ A taxpayer's liability for the service fee
24 required by s. 215.34(2) may be settled or compromised if it
25 is determined that the dishonored check, draft, or order was
26 returned due to an error committed by the issuing financial
27 institution, and the error is substantiated by the department.
28 The department shall maintain records of all compromises, and
29 the records shall state the basis for the compromise.

30 Section 16. The amendments to section 213.21(2) and
31 (3), Florida Statutes, made by this act shall apply only to

1 notices of intent to conduct an audit issued on or after
2 October 1, 2000.

3 Section 17. Subsection (6) of section 213.235, Florida
4 Statutes, is repealed.

5 Section 18. Subsection (9) is added to section 213.27,
6 Florida Statutes, to read:

7 213.27 Contracts with debt collection agencies and
8 certain vendors.--

9 (9)(a) The department may enter into contracts with
10 public or private vendors to develop and implement a voluntary
11 system for sales and use tax collection and administration.
12 The amount of compensation paid to vendors shall be
13 established by the executive director of the department and
14 shall be based upon a percentage of the sales and use tax
15 collections made through the system or on a per transaction
16 basis; however, if the amount of compensation is based upon a
17 percentage of the sales and use tax collections made through
18 the system, the percentage shall not exceed the negotiated
19 percentage provided in s. 212.12(1). The department shall
20 provide quarterly reports to the Speaker of the House of
21 Representatives, Minority Leader of the House of
22 Representatives, President of the Senate, and Minority Leader
23 of the Senate on the amount of compensation paid pursuant to
24 these contracts. The system shall have the capability to
25 determine the taxability of a transaction, the appropriate tax
26 rate to be applied to a taxable transaction, and the total tax
27 due on a transaction, and shall provide a method for remitting
28 the tax to the department. The department shall be responsible
29 for testing and certifying the accuracy of the system.

30 (b) A seller of goods or services subject to sales and
31 use tax who utilizes the system for purposes of computation

1 and remittance of sales and use tax shall not be subject to
2 the reporting and remittance requirements of ss. 212.11 and
3 212.15(1) for those transactions handled through the system
4 and shall not be entitled to the credit provided in s.
5 212.12(1). A seller of goods or services subject to sales and
6 use tax who utilizes the system for purposes of computation
7 and remittance of sales and use tax shall not be subject to
8 audit for those transactions handled through the system,
9 unless there are indicia that fraud has been committed by the
10 seller.

11 (c) Disclosure of information necessary under this
12 subsection shall be pursuant to a written agreement between
13 the executive director of the department and the vendor. The
14 vendor shall be bound by the same requirements of
15 confidentiality as the department. Breach of confidentiality
16 is a misdemeanor of the first degree, punishable as provided
17 in s. 775.082 or s. 775.083.

18 (d) On or before January 1 annually, the department
19 shall provide recommendations to the Speaker of the House of
20 Representatives, Minority Leader of the House of
21 Representatives, President of the Senate, and Minority Leader
22 of the Senate for provisions to be adopted for inclusion
23 within the system that will make sales and use tax collection
24 and administration simplified and uniform.

25 Section 19. Subsection (2) of section 220.62, Florida
26 Statutes, is amended to read:

27 220.62 Definitions.--For purposes of this part:

28 (2) The term "savings association" means a savings
29 association holding company formed under the Homeowners' Loan
30 Act (HOLA) of 1933, 12 U.S.C. 1467(a), as amended, or any
31 savings association, building and loan association, savings

1 and loan association, or mutual savings bank not having
2 capital stock, whether subject to the laws of this or any
3 other jurisdiction.

4 Section 20. Section 1 of chapter 98-187, Laws of
5 Florida, applies retroactively to the renewal of any
6 promissory note evidencing a term obligation executed on or
7 after January 1, 1990, for which the tax under section 201.09,
8 Florida Statutes, has not been paid and which was the subject
9 of a pending protest that was initiated prior to January 1,
10 1998.

11 Section 21. Except as otherwise expressly provided in
12 this act, this act shall take effect upon becoming a law.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 1070

4 The Committee Substitute made the following changes to SB
5 1070:

- 6 1) Authorizes the Department of Management Services to
7 share information to a government agency as necessary in
8 the administration of the Municipal Firefighters'
9 Pension Trust Funds and the Municipal Police Officers
10 Pension Trust Funds.
- 11 2) Adds the following Taxpayers' Bill of Rights issues:
12 The taxpayer has the right to be treated in a
13 professional manner by Department of Revenue personnel;
14 The taxpayer has the right to obtain simple,
15 nontechnical statements which explain the reason for
16 audit selection;
17 Provides circumstances for when doubt as to liability of
18 a taxpayer for tax and interest exists. A taxpayer who
19 establishes reasonable reliance on the written
20 determination issued by the Department of Revenue to the
21 taxpayer will be deemed to have shown reasonable cause
22 for noncompliance.
- 23 3) Adds to the sales tax exemption on equipment or
24 machinery for pollution control, specialty chemical or
25 bioaugmentation products.
- 26 4) For the purpose of the sales tax exemption for machinery
27 & equipment used in the production of electrical or
28 steam energy, the committee substitute provides an
29 exemption if 15% or less of all electrical or steam
30 energy generated was produced by burning nonresidual
31 fuel.
- 32 5) Adds SIC code 35 to the exemption for repair and labor
33 charges. SIC code 35 was inadvertently left out of the
34 bill last year. The Department of Revenue has
35 implemented the law as if SIC code 35 were included.
- 36 6) Adds savings association holding companies to the list
37 of entities exempt from the intangibles tax.
- 38 7) Provides a retroactive exemption for renewals of
39 promissory notes for revolving obligations, if the
40 renewal extends the existing agreement for certain term
41 obligations.