

Bill No. HB 509, 1st Eng.

Amendment No.     

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Klein moved the following amendment:		
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13	<b>Senate Amendment (with title amendment)</b>		
14	On page 1, line 25,		
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16	insert:		
17	Section 1. Paragraph (b) of subsection (14) of section		
18	120.80, Florida Statutes, is amended to read:		
19	120.80 Exceptions and special requirements;		
20	agencies.--		
21	(14) DEPARTMENT OF REVENUE.--		
22	(b) Taxpayer contest proceedings.--		
23	1. In any administrative proceeding brought pursuant		
24	to this chapter as authorized by s. 72.011(1), the taxpayer		
25	shall be designated the "petitioner" and the Department of		
26	Revenue shall be designated the "respondent," except that for		
27	actions contesting an assessment or denial of refund under		
28	chapter 207, the Department of Highway Safety and Motor		
29	Vehicles shall be designated the "respondent," and for actions		
30	contesting an assessment or denial of refund under chapters		
31	210, 550, 561, 562, 563, 564, and 565, the Department of		

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1 Business and Professional Regulation shall be designated the  
2 "respondent."

3           2. In any such administrative proceeding, the  
4 applicable department's burden of proof, except as otherwise  
5 specifically provided by general law, shall be limited to a  
6 showing that an assessment has been made against the taxpayer  
7 and the factual and legal grounds upon which the applicable  
8 department made the assessment.

9           3.a. Prior to filing a petition under this chapter,  
10 the taxpayer shall pay to the applicable department the amount  
11 of taxes, penalties, and accrued interest assessed by that  
12 department which are not being contested by the taxpayer.  
13 Failure to pay the uncontested amount shall result in the  
14 dismissal of the action and imposition of an additional  
15 penalty of 25 percent of the amount taxed.

16           b. The requirements of s. 72.011(2) and (3)(a) are  
17 jurisdictional for any action under this chapter to contest an  
18 assessment or denial of refund by the Department of Revenue,  
19 the Department of Highway Safety and Motor Vehicles, or the  
20 Department of Business and Professional Regulation.

21           4. Except as provided in s. 220.719, further  
22 collection and enforcement of the contested amount of an  
23 assessment for nonpayment or underpayment of any tax,  
24 interest, or penalty shall be stayed beginning on the date a  
25 petition is filed. Upon entry of a final order, an agency may  
26 resume collection and enforcement action.

27           5. The prevailing party, in a proceeding under ss.  
28 120.569 and 120.57 authorized by s. 72.011(1), may recover all  
29 legal costs incurred in such proceeding, including reasonable  
30 attorney's fees, if the losing party fails to raise a  
31 justiciable issue of law or fact in its petition or response.

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1           6. Upon review pursuant to s. 120.68 of final agency  
2 action concerning an assessment of tax, penalty, or interest  
3 with respect to a tax imposed under chapter 212, or the denial  
4 of a refund of any tax imposed under chapter 212, if the court  
5 finds that the Department of Revenue improperly rejected or  
6 modified a conclusion of law, the court may award reasonable  
7 attorney's fees and reasonable costs of the appeal to the  
8 prevailing appellant.

9           Section 2. Paragraph (d) is added to subsection (1) of  
10 section 213.21, Florida Statutes, to read:

11           213.21 Informal conferences; compromises.--

12           (1)(a) The Department of Revenue may adopt rules for  
13 establishing informal conference procedures within the  
14 department for resolution of disputes relating to assessment  
15 of taxes, interest, and penalties and the denial of refunds,  
16 and for informal hearings under ss. 120.569 and 120.57(2).

17           (b) The statute of limitations upon the issuance of  
18 final assessments shall be tolled during the period in which  
19 the taxpayer is engaged in a procedure under this section.

20           (c) During procedures under this section, the taxpayer  
21 has the right to be represented at the taxpayer's cost and to  
22 record procedures electronically or manually at the taxpayer's  
23 cost.

24           (d) Upon receipt of a notice of proposed assessment or  
25 denial of a claim for refund, a taxpayer may initiate an  
26 informal proceeding under this section by filing a timely  
27 written protest with the department. The department shall  
28 notify the taxpayer within 14 days after receipt of the  
29 protest that it has been received by the department and the  
30 date of its receipt. If a protest involves a dispute relating  
31 to an assessment of taxes, interest, or penalty imposed under

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1 chapter 212 or a denial of a refund claim related to taxes  
2 imposed under chapter 212, the department shall have 150 days  
3 following receipt of the taxpayer's written protest in which  
4 to issue a notice of decision. If the department does not  
5 issue its notice of decision within 150 days, interest will  
6 not accrue on any assessment that is the subject of the  
7 protest during the period beginning at the expiration of the  
8 150 days and ending on the date the department issues its  
9 notice of decision; however, that interest will continue to  
10 accrue during that period if the reason for the department's  
11 failure is a request by the taxpayer for an extension of time.  
12 Any agreement by the department and the taxpayer concerning  
13 mutual consent to an extension must be in writing and must  
14 state whether or not interest will continue to accrue during  
15 the extension period.

16  
17 (Redesignate subsequent sections.)

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

21 And the title is amended as follows:

22        On page 1, line 2, delete that line

23

24 and insert:

25        An act relating to taxation; amending s.  
26        120.80, F.S.; providing for the court to award  
27        attorney's fees and costs, as specified, when a  
28        taxpayer contests an assessment of tax,  
29        penalty, or interest or the denial of a refund  
30        with respect to any tax imposed under ch. 212,  
31        F.S., under the Administrative Procedure Act;

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1           amending s. 213.21, F.S.; specifying the time  
2           period within which the Department of Revenue  
3           shall issue a notice of decision when a  
4           taxpayer contests such an assessment, penalty,  
5           or interest or refund denial using informal  
6           conference procedures;  
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