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1 A bill to be entitled

2 An act relating to taxation; amending s. 199.052, F.S.;  
3 deleting a requirement to permit a voluntary contribution  
4 to the Election Campaign Financing Trust Fund when filing  
5 an intangible tax return; amending ss. 202.11, 202.125,  
6 202.22, 202.27, 202.28, 202.34, and 202.35, F.S., relating  
7 to the local communications services tax; revising  
8 definitions; changing sourcing requirements for third-  
9 number and calling-card calls; excluding certain not-for-  
10 hire mobile communications services from the definition of  
11 the term "substitute communications systems"; providing an  
12 exemption for homes for the aged; defining the term "home  
13 for the aged" and providing qualification requirements;  
14 providing limitations on refunds of or credits for taxes  
15 collected; providing legislative intent with respect to  
16 provisions clarifying the law; requiring a taxpayer to  
17 designate a managerial representative; requiring a  
18 response from the dealer; providing a procedure for the  
19 taxpayer and the department to resolve a material error on  
20 a tax return; providing a definition; providing for  
21 repeal; providing penalties for failure to properly report  
22 and identify taxes on the appropriate return schedule;  
23 providing penalties for failure to assign service  
24 addresses to the correct local jurisdiction under certain  
25 circumstances; authorizing the department to allocate  
26 service addresses to local jurisdictions under specified  
27 circumstances; requiring that a taxpayer provide certain  
28 records to the Department of Revenue in a certain format  
29 under certain circumstances; authorizing the department to  
30 determine the allocation or reallocation of certain taxes



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31 to local governments under certain circumstances; amending  
32 s. 206.02, F.S.; prohibiting a person from engaging in  
33 business as a biodiesel manufacturer unless the person is  
34 licensed by the department; revising licensing  
35 requirements; requiring biodiesel manufacturers to meet  
36 the reporting, bonding, and licensing requirements  
37 prescribed for wholesalers of motor fuel; amending s.  
38 206.026, F.S.; requiring the department to obtain  
39 fingerprints for criminal background checks for certain  
40 license holders; amending s. 206.052, F.S., relating to  
41 the export of tax-free fuels; conforming a cross reference  
42 to changes made by the act; amending s. 206.14, F.S.;  
43 providing a penalty for failure to provide records as  
44 required by the department; amending s. 206.414, F.S.,  
45 relating to local option fuel taxes; providing for the tax  
46 to be collected when fuel is removed through the terminal  
47 loading rack; providing procedures for such tax  
48 collection; amending s. 206.416, F.S.; deleting certain  
49 provisions authorizing a change in the destination of  
50 fuel; requiring that a wholesaler or exporter register as  
51 an importer under certain circumstances; providing  
52 penalties; amending s. 206.485, F.S., relating to tracking  
53 reports for petroleum products; imposing a penalty for  
54 failure to provide such reports; amending s. 206.86, F.S.;  
55 revising the definition of the term "diesel fuel" and  
56 defining the terms "biodiesel" and "biodiesel  
57 manufacturer" for certain purposes; amending s. 206.89,  
58 F.S., relating to the regulating of alternative fuels;  
59 requiring the licensure of retailers rather than  
60 wholesalers; amending s. 212.055, F.S.; providing



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61 additional uses for the proceeds of the local government  
62 infrastructure surtax for certain counties under specified  
63 circumstances; amending s. 212.0606, F.S., relating to the  
64 rental car surcharge; requiring dealers to report the  
65 surcharge collections by the county where collected;  
66 amending s. 212.08, F.S.; authorizing certain carriers to  
67 prorate the state tax on motor or diesel fuels used in  
68 interstate commerce in the initial year of operation;  
69 revising the definition of a housing project for purposes  
70 of the sales and use tax exemption for building materials  
71 used in redevelopment projects; creating an exemption from  
72 the sales and use tax for low speed vehicles; amending s.  
73 212.11, F.S.; correcting a cross reference; amending s.  
74 212.12, F.S.; deleting a prohibition on certain allowances  
75 if the tax is delinquent; revising a limitation on certain  
76 penalties; providing an additional penalty for failure to  
77 timely disclose a tax or fee; requiring that the  
78 department make certain tax amounts and brackets available  
79 in an electronic format; deleting a requirement that the  
80 amounts and brackets be established pursuant to rule;  
81 amending s. 213.053, F.S.; deleting a repeal of the  
82 allowance of confidential information sharing concerning a  
83 certified public accountant participating in the certified  
84 audits project under specified circumstances; authorizing  
85 the Department of Revenue to share information with the  
86 Department of Transportation on rental car surcharge  
87 revenues; amending s. 213.0535, F.S.; providing that a  
88 local government which collects a municipal resort tax may  
89 participate in the Registration Information Sharing and  
90 Exchange Program; amending s. 213.21, F.S.; revising the



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91 period during which a taxpayer may voluntarily disclose a  
92 tax liability; providing for applicability; deleting a  
93 repeal of the Department of Revenue's compromise authority  
94 for interest and penalties related to the certified audits  
95 project; amending s. 213.285, F.S.; deleting a repeal of  
96 the certified audits project; requiring a report regarding  
97 the effectiveness of the certified audits project;  
98 amending s. 336.021, F.S.; revising certain dates for  
99 purposes of certifying distributions of local option fuel  
100 taxes; amending ss. 443.036, 443.131, and 443.1316, F.S.,  
101 relating to the unemployment compensation tax; requiring  
102 that a limited liability company be treated at the same  
103 status as it is classified for federal income tax  
104 purposes; clarifying succession requirements for  
105 employers; providing for transfer of employees; providing  
106 that recovery of certain federal moneys from the Agency  
107 for Workforce Innovation is not limited by state law on  
108 indirect cost recovery; amending s. 443.163, F.S.;  
109 revising requirements of electronic reporting and  
110 remitting for certain persons who prepare and report  
111 taxes; revising penalties for failing to report or remit  
112 taxes by electronic means; providing for retroactive  
113 application; amending s. 624.509, F.S.; creating an  
114 allocation formula for employee salary credits for certain  
115 corporations for the purpose of calculating the salary tax  
116 credit for insurance premium tax purposes; providing  
117 definitions; providing for disallowing the salary tax  
118 credit under certain circumstances; amending s. 832.062,  
119 F.S.; prohibiting certain electronic funds transfers if  
120 the taxpayer knows at the time of such transfer that funds



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121 are insufficient to cover the transfer; providing  
 122 effective dates.

123  
 124 Be It Enacted by the Legislature of the State of Florida:

125  
 126 Section 1. Subsections (13), (14), and (15) of section  
 127 199.052, Florida Statutes, are amended to read:

128 199.052 Annual tax returns; payment of annual tax.--

129 ~~(13) The annual intangible tax return shall include~~  
 130 ~~language permitting a voluntary contribution of \$5 per taxpayer,~~  
 131 ~~which contribution shall be transferred into the Election~~  
 132 ~~Campaign Financing Trust Fund. A statement providing an~~  
 133 ~~explanation of the purpose of the trust fund shall also be~~  
 134 ~~included.~~

135 (13)~~(14)~~ If a bank or savings association, as defined in  
 136 s. 220.62, acts as a fiduciary or agent of a trust other than as  
 137 a trustee, the bank or savings association is not responsible  
 138 for returning the trust's intangible personal property and is  
 139 not required to pay any annual tax on it, and the management or  
 140 control of the bank or savings association shall not be used as  
 141 the basis for imposing any annual tax on any person or any  
 142 assets of the trust. If a person acts as a fiduciary or agent  
 143 for purposes of managing intangible assets owned by another  
 144 person, such intangible assets shall not have a taxable situs in  
 145 this state pursuant to s. 199.175 solely by virtue of the  
 146 management or control of such assets by the person who is not  
 147 the owner of the assets.

148 (14)~~(15)~~(a) Except as provided in paragraph (b), all banks  
 149 and financial organizations filing annual intangible tax returns  
 150 for their customers shall file return information for taxes due



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151 January 1, 1999, and thereafter using machine-sensible media.  
 152 The information required by this subsection must be reported by  
 153 banks or financial organizations on machine-sensible media,  
 154 using specifications and instructions of the department. A bank  
 155 or financial organization that demonstrates to the satisfaction  
 156 of the department that a hardship exists is not required to file  
 157 intangible tax returns for its customers using machine-sensible  
 158 media. The department shall adopt rules necessary to administer  
 159 this paragraph.

160 (b) A taxpayer may choose to file an annual intangible  
 161 personal property tax return in a form initiated through an  
 162 electronic data interchange using an advanced encrypted  
 163 transmission by means of the Internet or other suitable  
 164 transmission. The department shall prescribe by rule the format  
 165 and instructions necessary for such filing to ensure a full  
 166 collection of taxes due. The acceptable method of transfer, the  
 167 method, form, and content of the electronic data interchange,  
 168 and the means, if any, by which the taxpayer will be provided  
 169 with an acknowledgment shall be prescribed by the department.

170 Section 2. Paragraph (a) of subsection (15) and subsection  
 171 (16) of section 202.11, Florida Statutes, are amended to read:

172 202.11 Definitions.--As used in this chapter:

173 (15) "Service address" means:

174 (a) Except as otherwise provided in this section, the  
 175 location of the communications equipment from which  
 176 communications services originate or at which communications  
 177 services are received by the customer. ~~If the location of such~~  
 178 ~~equipment cannot be determined as part of the billing process,~~  
 179 ~~as in the case of third number and calling card calls and~~  
 180 ~~similar services, the term means the location determined by the~~



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181 ~~dealer based on the customer's telephone number, the customer's~~  
 182 ~~mailing address to which bills are sent by the dealer, or~~  
 183 ~~another street address provided by the customer.~~ In the case of  
 184 a communications service paid through a credit or payment  
 185 mechanism that does not relate to a service address, such as a  
 186 bank, travel, debit, or credit card, and in the case of third-  
 187 number and calling-card calls, the service address is the  
 188 address of the central office, as determined by the area code  
 189 and the first three digits of the seven-digit originating  
 190 telephone number.

191 (16) "Substitute communications system" means any  
 192 telephone system, or other system capable of providing  
 193 communications services, which a person purchases, installs,  
 194 rents, or leases for his or her own use to provide himself or  
 195 herself with services used as a substitute for any switched  
 196 service or dedicated facility by which a dealer of  
 197 communications services provides a communication path. The term  
 198 does not include a not-for-hire mobile communications service  
 199 that exclusively serves the internal communication needs of a  
 200 nonprofit utility provider.

201 Section 3. Subsection (4) of section 202.125, Florida  
 202 Statutes, is amended to read:

203 202.125 Sales of communications services; specified  
 204 exemptions.--

205 (4) The sale of communications services to a home for the  
 206 aged, religious institution, or educational institution that is  
 207 exempt from federal income tax under s. 501(c)(3) of the  
 208 Internal Revenue Code, or by a religious institution that is  
 209 exempt from federal income tax under s. 501(c)(3) of the  
 210 Internal Revenue Code having an established physical place for



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211 worship at which nonprofit religious services and activities are  
 212 regularly conducted and carried on, is exempt from the taxes  
 213 imposed or administered pursuant to ss. 202.12 and 202.19. As  
 214 used in this subsection, the term:

215 (a) "Religious institution" means an organization owning  
 216 and operating an established physical place for worship at which  
 217 nonprofit religious services and activities are regularly  
 218 conducted. The term also includes:

219 1. Any nonprofit corporation the sole purpose of which is  
 220 to provide free transportation services to religious institution  
 221 members, their families, and other religious institution  
 222 attendees.

223 2. Any nonprofit state, district, or other governing or  
 224 administrative office the function of which is to assist or  
 225 regulate the customary activities of religious institutions.

226 3. Any nonprofit corporation that owns and operates a  
 227 television station in this state of which at least 90 percent of  
 228 the programming consists of programs of a religious nature and  
 229 the financial support for which, exclusive of receipts for  
 230 broadcasting from other nonprofit organizations, is  
 231 predominantly from contributions from the public.

232 4. Any nonprofit corporation the primary activity of which  
 233 is making and distributing audio recordings of religious  
 234 scriptures and teachings to blind or visually impaired persons  
 235 at no charge.

236 5. Any nonprofit corporation the sole or primary purpose  
 237 of which is to provide, upon invitation, nonprofit religious  
 238 services, evangelistic services, religious education,  
 239 administrative assistance, or missionary assistance for a  
 240 religious institution, or established physical place of worship





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241 at which nonprofit religious services and activities are  
 242 regularly conducted.

243 (b) "Educational institution" includes:

244 1. Any state tax-supported, parochial, religious  
 245 institution, and nonprofit private school, college, or  
 246 university that conducts regular classes and courses of study  
 247 required for accreditation by or membership in the Southern  
 248 Association of Colleges and Schools, the Florida Council of  
 249 Independent Schools, or the Florida Association of Christian  
 250 Colleges and Schools, Inc.

251 2. Any nonprofit private school that conducts regular  
 252 classes and courses of study which are accepted for continuing  
 253 education credit by a board of the Division of Medical Quality  
 254 Assurance of the Department of Health.

255 3. Any nonprofit library.

256 4. Any nonprofit art gallery.

257 5. Any nonprofit performing arts center that provides  
 258 educational programs to school children, which programs involve  
 259 performances or other educational activities at the performing  
 260 arts center and serve a minimum of 50,000 school children a  
 261 year.

262 6. Any nonprofit museum that is open to the public.

263 (c) "Home for the aged" includes any nonprofit  
 264 corporation:

265 1.a. In which at least 75 percent of the occupants are 62  
 266 years of age or older or totally and permanently disabled.

267 b. Which qualifies for an ad valorem property tax  
 268 exemption under s. 196.196, s. 196.197, or s. 196.1975.

269 c. Which is exempt from the sales tax imposed under  
 270 chapter 212.



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271 2. Licensed as a nursing home or an assisted living  
 272 facility under chapter 400 and which is exempt from the sales  
 273 tax imposed under chapter 212.

274 Section 4. Subsection (8) is added to section 202.22,  
 275 Florida Statutes, to read:

276 202.22 Determination of local tax situs.--

277 (8) All local communications services taxes collected by a  
 278 dealer are subject to the provisions of s. 213.756. The hold  
 279 harmless protection provided by subsection (1) does not entitle  
 280 a dealer to retain or take credits for taxes collected from any  
 281 customers that are assigned to an incorrect local taxing  
 282 jurisdiction in excess of the taxes due to the correct local  
 283 taxing jurisdiction for that customer. Dealers are entitled to  
 284 refunds of or credits for such excess collections only upon  
 285 making refunds or providing credits to the customer.

286 Section 5. The amendment to s. 202.22(8), Florida  
 287 Statutes, made by this act is remedial in nature and is intended  
 288 to clarify existing law.

289 Section 6. Subsection (6) of section 202.27, Florida  
 290 Statutes, is renumbered as subsection (8) and subsections (6)  
 291 and (7) are added to said section to read:

292 202.27 Return filing; rules for self-accrual.--

293 (6) In addition to the contact person identified on the  
 294 return, each dealer of communications services obligated to  
 295 collect and remit local communications services tax imposed  
 296 under s. 202.19 may at any time, and shall within 10 days after  
 297 a request, designate a managerial representative to whom the  
 298 department shall direct any inquiry regarding the completeness  
 299 or accuracy of the dealer's return when the response provided by  
 300 the contact person identified on the return was inadequate. When



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301 the representative designated under this subsection is contacted  
302 by the department, the dealer shall respond to the department  
303 within 30 days.

304 (7)(a) If the department determines it is probable that a  
305 return filed pursuant to this chapter contains a material error  
306 in the reporting of local communications service taxes by  
307 jurisdiction as required by s. 202.37(2), the department,  
308 subject to the provisions of this subsection, may issue a notice  
309 as described in this subsection to the dealer that filed the  
310 return. The notice shall be in writing and shall be issued as  
311 soon as possible following the date the department received the  
312 return. Prior to issuing the notice, the department shall  
313 attempt to resolve the issue in the manner provided in  
314 subsection (6), shall consult with the affected local  
315 jurisdictions, and shall consult other sources of information  
316 available to the department that would have a bearing on whether  
317 the existence of a material error in the return is probable.  
318 Such inquiry by the department shall include, without  
319 limitation, whether local rate changes, changes in  
320 jurisdictional boundaries, or fluctuations in the taxes reported  
321 by other dealers are consistent with the reporting on the return  
322 that is the subject of the notice. The notice shall specify the  
323 schedule and the line or lines of the return that are the  
324 subject of the notice, describe the reporting error, and  
325 describe the other sources of information consulted by the  
326 department as required herein and the results of such inquiry.

327 (b) The dealer shall respond in writing to the notice  
328 within 90 days after receipt of the notice, except that an  
329 extension of such 90-day period shall be granted if requested by  
330 the dealer for reasonable cause. The dealer's response shall



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331 state either that the return contained a material error  
332 conforming to the department's description and that the error  
333 has been corrected by filing a corrected return or that the  
334 dealer has been unable to locate such an error. In the latter  
335 event, the dealer's response shall also state whether any of the  
336 following events have occurred that might reasonably account for  
337 the condition described in the notice as a probable reporting  
338 error:

339 1. The dealer has changed from one of the methods  
340 specified in s. 202.22(1) of assigning customers to local  
341 jurisdictions to another method specified in such subsection;

342 2. There has been an acquisition or disposition of an  
343 entity providing communications services, an acquisition or  
344 disposition of such an entity's assets used to provide such  
345 services, or a change in the dealer's licensed service area;

346 3. The dealer has implemented a new billing system;

347 4. There has been an update to the dealer's database or  
348 corrections in assignments of service addresses pursuant to s.  
349 202.22(4)(b); or

350 5. Substantial credits, refunds, or adjustments to  
351 customer accounts are reflected in the return identified in the  
352 notice.

353  
354 This paragraph shall not be construed to require the dealer to  
355 perform a self-audit to ascertain whether the condition  
356 described in the notice is attributable to any of the foregoing  
357 events and the issuance of the notice shall not be considered to  
358 determine the dealer's substantial interests or be considered to  
359 constitute an audit for purposes of this chapter.



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360 (c) If the dealer responds as required in this subsection  
361 and provides information prescribed in subparagraphs (b)1.-5.  
362 that is incorrect and, after audit, the return is finally  
363 determined to contain the specific material error identified in  
364 the notice, the dealer shall be subject to a penalty not to  
365 exceed the lesser of 10 percent of any taxes reported for an  
366 incorrect jurisdiction as a result of the error or \$10,000. If  
367 the dealer fails to respond to the notice or request an  
368 extension within the time prescribed, the dealer shall be  
369 subject to a specific penalty of \$5,000, except that the  
370 department shall waive the specific penalty if the dealer  
371 responds as required within 30 days after notification that the  
372 specific penalty has been imposed.

373 (d) For purposes of this subsection, the term "material  
374 error" means an error in the reporting of tax on a return for a  
375 specific local jurisdiction that exceeds the greater of \$50,000  
376 or 50 percent of the tax reported for such local jurisdiction.  
377 Material error also includes a return for which Schedule I or  
378 Schedule II is not included, regardless of the tax amount  
379 reported. The term "material error" does not include, and the  
380 penalties set forth in this subsection shall not apply to, any  
381 error resulting from the assignment of a service address to an  
382 incorrect local taxing jurisdiction for which the dealer is held  
383 harmless under s. 202.22(1).

384 (e) This subsection is repealed June 30, 2004.

385 Section 7. Paragraphs (d) and (e) are added to subsection  
386 (2) of section 202.28, Florida Statutes, to read:

387 202.28 Credit for collecting tax; penalties.--

388 (2)



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389 (d) If a dealer fails to separately report and identify  
390 local communications services taxes on the appropriate return  
391 schedule, the dealer shall be subject to a penalty of \$5,000 per  
392 return.

393 (e) If a dealer of communications services does not use  
394 one or more of the methods specified in s. 202.22(1) for  
395 assigning service addresses to local jurisdictions and assigns  
396 one or more service addresses to an incorrect local jurisdiction  
397 in collecting and remitting local communications services taxes  
398 imposed under s. 202.19, the dealer shall be subject to a  
399 specific penalty of 10 percent of any tax collected but reported  
400 to the incorrect jurisdiction as a result of incorrect  
401 assignment, provided that in no event shall the penalty imposed  
402 hereunder with respect to a single return exceed \$10,000.

403 Section 8. Subsection (5) is added to section 202.34,  
404 Florida Statutes, to read:

405 202.34 Records required to be kept; power to inspect;  
406 audit procedure.--

407 (5) If a dealer retains records in both machine-sensible  
408 and hard copy formats, upon request by the department, the  
409 dealer shall make the records available to the department in the  
410 machine-sensible format. Any dealer or other person who fails or  
411 refuses to provide such records within 60 days after the  
412 department's request or any extension thereof shall, in addition  
413 to all other penalties provided by law, be subject to a specific  
414 penalty of \$5,000 per audit.

415 Section 9. Subsection (3) of section 202.35, Florida  
416 Statutes, is amended to read:

417 202.35 Powers of department in dealing with delinquents;  
418 tax to be separately stated.--



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419 (3) If a dealer or other person fails or refuses to make  
420 his or her records available for inspection so that an audit or  
421 examination of his or her books and records cannot be made,  
422 fails or refuses to register as a dealer, fails to make a report  
423 and pay the tax as provided by this chapter, makes a grossly  
424 incorrect report, or makes a report that is false or fraudulent,  
425 the department shall make an assessment from an estimate based  
426 upon the best information then available to it for the taxable  
427 period of retail sales of the dealer, together with any accrued  
428 interest and penalties. The department shall then proceed to  
429 collect the taxes, interest, and penalties on the basis of such  
430 assessment, which shall be considered prima facie correct; and  
431 the burden to show the contrary rests upon the dealer or other  
432 person. If a dealer fails to respond to a contact made pursuant  
433 to s. 202.27(6) or a notice issued pursuant to s. 202.27(7), or  
434 if a dealer's records are determined to be inadequate for  
435 purposes of determining whether the dealer properly allocated  
436 tax to and between local governments, the department is  
437 authorized to determine the proper allocation or reallocation of  
438 the tax based upon the best information available to the  
439 department and shall seek the agreement of the affected local  
440 governments.

441 Section 10. Section 206.02, Florida Statutes, is amended  
442 to read:

443 206.02 Application for license; temporary license;  
444 terminal suppliers, importers, exporters, blenders, biodiesel  
445 manufacturers, and wholesalers.--

446 (1) It is unlawful for any person to engage in business as  
447 a terminal supplier, importer, exporter, blender, biodiesel  
448 manufacturer, or wholesaler of motor fuel within this state



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449 unless such person is the holder of an unrevoked license issued  
 450 by the department to engage in such business. A person is  
 451 engaging in such business if he or she:

452 (a) Imports or causes any motor fuel to be imported and  
 453 sells such fuel at wholesale, retail, or otherwise within this  
 454 state.

455 (b) Imports and withdraws for use within this state by  
 456 himself or herself or others any motor fuel from the tank car,  
 457 truck, or other original container or package in which such  
 458 motor fuel was imported into this state.

459 (c) Manufactures, refines, produces, or compounds any  
 460 motor fuel and sells such fuel at wholesale or retail, or  
 461 otherwise within this state for use or consumption within this  
 462 state.

463 (d) Imports into this state from any other state or  
 464 foreign country, or receives by any means into this state, any  
 465 motor fuel which is intended to be used for consumption in this  
 466 state and keeps such fuel in storage in this state for a period  
 467 of 24 hours or more after it loses its interstate or foreign  
 468 commerce character as a shipment in interstate or foreign  
 469 commerce.

470 (e) Is primarily liable under the fuel tax laws of this  
 471 state for the payment of motor fuel taxes.

472 (f) Purchases or receives in this state motor fuel upon  
 473 which the tax has not been paid.

474 (g) Exports taxable motor or diesel fuels either from  
 475 substorage at a bulk facility or directly from a terminal rack  
 476 to a destination outside the state.





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477 (2) To procure a terminal supplier license, a person shall  
 478 file with the department an application under oath, and in such  
 479 form as the department may prescribe, setting forth:

480 (a) The name under which the person will transact business  
 481 within the state and that person's registration number under s.  
 482 4101 of the Internal Revenue Code.

483 (b) The location, with street number address, of his or  
 484 her principal office or place of business and the location where  
 485 records will be made available for inspection.

486 (c) The name and complete residence address of the owner  
 487 or the names and addresses of the partners, if such person is a  
 488 partnership, or of the principal officers, if such person is a  
 489 corporation or association; and, if such person is a corporation  
 490 organized under the laws of another state, territory, or  
 491 country, he or she shall also indicate the state, territory, or  
 492 country in which the corporation is organized and the date the  
 493 corporation was registered with ~~file with the application a~~  
 494 ~~certified copy of the certificate or license issued by the~~  
 495 Department of State as a foreign corporation ~~showing that such~~  
 496 ~~corporation is~~ authorized to transact business in the state.

497  
 498 The application shall require a \$30 license tax. Each license  
 499 shall be renewed annually through application, including an  
 500 annual \$30 license tax.

501 (3) To procure an importer, exporter, or blender of motor  
 502 fuels license, a person shall file with the department an  
 503 application under oath, and in such form as the department may  
 504 prescribe, setting forth:

505 (a) The name under which the person will transact business  
 506 within the state.



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507 (b) The location, with street number address, of his or  
508 her principal office or place of business and the location where  
509 records will be made available for inspection.

510 (c) The name and complete residence address of the owner  
511 or the names and addresses of the partners, if such person is a  
512 partnership, or of the principal officers, if such person is a  
513 corporation or association; and, if such person is a corporation  
514 organized under the laws of another state, territory, or  
515 country, he or she shall also indicate the state, territory, or  
516 country in which the corporation is organized and the date the  
517 corporation was registered with ~~file with the application a~~  
518 ~~certified copy of the certificate or license issued by the~~  
519 Department of State as a foreign corporation ~~showing that such~~  
520 ~~corporation is~~ authorized to transact business in the state.

521  
522 The application shall require a \$30 license tax. Each license  
523 shall be renewed annually through application, including an  
524 annual \$30 license tax.

525 (4) To procure a wholesaler of motor fuel license, a  
526 person shall file with the department an application under oath  
527 and in such form as the department may prescribe, setting forth:

528 (a) The name under which the person will transact business  
529 within the state.

530 (b) The location, with street number address, of his or  
531 her principal office or place of business within this state and  
532 the location where records will be made available for  
533 inspection.

534 (c) The name and complete residence address of the owner  
535 or the names and addresses of the partners, if such person is a  
536 partnership, or of the principal officers, if such person is a



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537 corporation or association; and, if such person is a corporation  
 538 organized under the laws of another state, territory, or  
 539 country, he or she shall also indicate the state, territory, or  
 540 country in which the corporation is organized and the date the  
 541 corporation was registered with ~~file with the application a~~  
 542 ~~certified copy of the certificate or license issued by the~~  
 543 Department of State as a foreign corporation ~~showing that such~~  
 544 ~~corporation is~~ authorized to transact business in the state.

545

546 The application shall require a \$30 license tax. Each license  
 547 shall be renewed annually through application, including an  
 548 annual \$30 license fee.

549 (5) Each biodiesel manufacturer must meet the reporting,  
 550 bonding, and licensing requirements prescribed for wholesalers  
 551 by this chapter ~~Any importer who establishes a business location~~  
 552 ~~in this state must, prior to beginning business in the state,~~  
 553 ~~apply for and be issued a wholesaler's license. An importer's~~  
 554 ~~license becomes invalid on the date business operations begin~~  
 555 ~~from a location within this state.~~

556 (6) Upon the filing of an application for a license and  
 557 concurrently therewith, a bond of the character stipulated and  
 558 in the amount provided for shall be filed with the department.  
 559 No license shall issue upon any application unless accompanied  
 560 by such a bond, except as provided in s. 206.05(1).

561 (7)(a) If all applicants for a license hold a current  
 562 license in good standing of the same type and kind, the  
 563 department shall issue a temporary license upon the filing of a  
 564 completed application, payment of all fees, and the posting of  
 565 adequate bond. A temporary license shall automatically expire 90  
 566 days after its effective date or, prior to the expiration of 90



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567 days or the period of any extension, upon issuance of a  
568 permanent license or of a notice of intent to deny a permanent  
569 license. A temporary license may be extended once for a period  
570 not to exceed 60 days, upon written request of the applicant,  
571 subject to the restrictions imposed by this subsection.

572 (b) A publicly held corporation, the securities of which  
573 are regularly traded on a national securities exchange and not  
574 over the counter, which begins a new business and which applies  
575 for a license as a terminal supplier, importer, exporter, or  
576 wholesaler shall be issued a license without the department's  
577 background investigation.

578 Section 11. Subsection (5) of section 206.026, Florida  
579 Statutes, is amended to read:

580 206.026 Certain persons prohibited from holding a terminal  
581 supplier, importer, exporter, blender, carrier, terminal  
582 operator, or wholesaler license; suspension and revocation.--

583 (5) The department shall obtain fingerprints and ~~make such~~  
584 ~~rules for the photographing, fingerprinting, and obtaining of~~  
585 ~~personal data from persons of individuals~~ described in paragraph  
586 (1)(a) for purposes of determining whether such persons have a  
587 criminal background and shall obtain ~~the obtaining of such~~ data  
588 regarding the business entities described in paragraph (1)(a) ~~as~~  
589 ~~are necessary~~ to effectuate the provisions of this section. Such  
590 fingerprints shall be used for statewide criminal and juvenile  
591 records checks through the Department of Law Enforcement and  
592 federal criminal records checks through the Federal Bureau of  
593 Investigation.

594 Section 12. Subsection (2) of section 206.052, Florida  
595 Statutes, is amended to read:

596 206.052 Export of tax-free fuels.--



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597 (2) A licensed exporter shall not divert for sale or use  
 598 in this state any fuel designated to a destination outside this  
 599 state without first obtaining a diversion number from the  
 600 department as specified in s. 206.416(1) (b) ~~(d)~~ and manually  
 601 recording that number on the shipping paper prior to diversion  
 602 of fuel for sale or use in this state.

603 Section 13. Subsection (2) of section 206.14, Florida  
 604 Statutes, is amended to read:

605 206.14 Inspection of records; audits; hearings; forms;  
 606 rules and regulations.--

607 (2) (a) The department or any authorized deputy, employee,  
 608 or agent is authorized to audit and examine the records, books,  
 609 papers, and equipment of terminal suppliers, importers,  
 610 exporters, or wholesalers, retail dealers, terminal operators,  
 611 or all private and common carriers to verify the truth and  
 612 accuracy of any statement or report and ascertain whether or not  
 613 the tax imposed by this law has been paid. No prior written  
 614 notification is necessary. In addition to making all records  
 615 available to the department to determine the accuracy of tax  
 616 payments to the state and suppliers, all persons, including  
 617 retail dealers, wholesalers, importers, exporters, terminal  
 618 suppliers, and end users with storage other than the fuel tank  
 619 of a highway vehicle, shall make available to the department,  
 620 during normal business hours, records disclosing all receipts,  
 621 sales, inventory records, fuel payments, and tax payment  
 622 information. These records shall cover all transactions within  
 623 the last 3 complete calendar months and shall be made available  
 624 within 3 business days of the department's request. The  
 625 department may correct by credit or refund any overpayment of  
 626 tax, penalty, or interest revealed by an audit or examination



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627 and shall make assessment of any deficiency in tax, penalty, or  
 628 interest determined to be due.

629 (b) Any person who fails to provide the records required  
 630 by this section shall, in addition to all other penalties, be  
 631 subject to a penalty of \$5,000.

632 Section 14. Section 206.414, Florida Statutes, is amended  
 633 to read:

634 206.414 Collection of certain taxes; prohibited credits  
 635 and refunds.--

636 (1) Notwithstanding the provisions of s. 206.41 requiring  
 637 the collection of taxes due when motor fuel is removed through  
 638 the terminal loading rack, the taxes imposed by s. 206.41(1)(d),  
 639 (e), and (f) shall be collected in the following manner:

640 (a) Prior to January 1 of each year, the department shall  
 641 determine the minimum amount of taxes to be imposed by s.  
 642 206.41(1)(d), (e), and (f) in any county.

643 (b) The minimum tax imposed by s. 206.41(1)(d), (e), and  
 644 (f) shall be collected in the same manner as the taxes imposed  
 645 under s. 206.41(1)(a), (b), and (c), at the point of removal  
 646 through the terminal loading rack or as provided in paragraph  
 647 (c). All taxes collected, refunded, or credited shall be  
 648 distributed based on the current applied period.

649 (c)(1) The taxes imposed by s. 206.41(1)(d), (e), and (f)  
 650 above the annual minimum shall be collected and remitted by  
 651 licensed wholesalers and terminal suppliers upon each sale,  
 652 delivery, or consignment to retail dealers, resellers, and end  
 653 users.

654 (2) Terminal suppliers and wholesalers shall not collect  
 655 the taxes imposed by s. 206.41(1)(d), (e), and (f) above the  
 656 annual minimum established in this section on authorized



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657 exchanges and sales to terminal suppliers, wholesalers, and  
658 importers.

659 (3) Terminal suppliers, wholesalers, and importers shall  
660 not pay the taxes imposed by s. 206.41(1)(d), (e), and (f) above  
661 the annual minimum established in this section to their  
662 suppliers. There shall be no credit or refund for any of the  
663 taxes imposed by s. 206.41(1)(d), (e), and (f) above the annual  
664 minimum established in this section paid by a terminal supplier,  
665 wholesaler, or importer to any supplier.

666 Section 15. Subsection (1) of section 206.416, Florida  
667 Statutes, is amended to read:

668 206.416 Change in state destination.--

669 ~~(1)(a) A terminal supplier or person who is receiving fuel~~  
670 ~~pursuant to an exchange agreement who sells fuel destined for~~  
671 ~~sale or use in this state may change the destination state~~  
672 ~~designated on the original shipping paper upon notification by~~  
673 ~~the purchaser of the fuel by the 10th day of the month following~~  
674 ~~the date of the transaction. The terminal supplier or position~~  
675 ~~holder shall document a timely change in destination state by~~  
676 ~~issuing a new invoice bearing the corrected destination state.~~  
677 ~~Each terminal supplier and position holder shall report monthly~~  
678 ~~to the department all changes in the state of destination~~  
679 ~~issued, including the name of purchaser, date, number of gallons~~  
680 ~~of fuel, and the basis for the change.~~

681 ~~(b) A terminal supplier or position holder who issues a~~  
682 ~~change in the state of destination on the invoice to this state~~  
683 ~~from another state shall collect and remit to the department the~~  
684 ~~tax levied pursuant to this part on such fuel. A terminal~~  
685 ~~supplier or position holder who issues a change in the state of~~  
686 ~~destination from this state to another state shall be entitled~~



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687 ~~to a credit or refund of any tax levied pursuant to this part on~~  
688 ~~such fuel which it has collected and remitted to the department.~~

689 (a)(e) A terminal supplier or position holder may sell  
690 motor or diesel fuel, other than by bulk transfer, a portion of  
691 which fuel is destined for sale or use in this state and a  
692 portion of which fuel is destined for sale or use in another  
693 state or states. However, such sale shall be documented by the  
694 terminal supplier or position holder by issuing shipping papers  
695 designating the state of destination for each portion of the  
696 fuel.

697 (b)(d) A licensed terminal supplier, wholesaler, importer,  
698 or exporter who intends to sell or use motor fuel in this state  
699 which was purchased pursuant to shipping papers bearing an out-  
700 of-state destination shall obtain a diversion number issued by  
701 the department which shall be manually recorded by the terminal  
702 supplier, wholesaler, importer, or exporter on the shipping  
703 paper prior to importing the fuel into this state. The terminal  
704 supplier, ~~If the licensed wholesaler, importer, or exporter~~  
705 ~~fails to timely notify the terminal supplier or position holder~~  
706 ~~pursuant to paragraph (a) to obtain a corrected invoice, the~~  
707 ~~licensed wholesaler, importer, or exporter is shall be~~ liable  
708 for reporting and remitting ~~to report and remit~~ all applicable  
709 taxes on said fuel with the return required pursuant to s.  
710 206.43.

711 (c) If a wholesaler or exporter diverts to this state,  
712 within 3 consecutive months, more than six loads of fuel which  
713 were originally destined for allocation outside the state, the  
714 wholesaler or exporter must register as an importer within 30  
715 days after such diversion. A wholesaler or exporter who violates  
716 this paragraph is subject to the penalties prescribed under ss.





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717 206.413 and 206.872.

718 Section 16. Section 206.485, Florida Statutes, is amended  
719 to read:

720 206.485 Tracking system reporting requirements.--

721 (1) The information required for tracking movements of  
722 petroleum products pursuant to ss. 206.08, 206.09, 206.095, and  
723 206.48 shall be submitted in the manner prescribed by the  
724 executive director of the department by rule. The rule shall  
725 include, but not be limited to, the data elements, the format of  
726 the data elements, and the method and medium of transmission to  
727 the department.

728 (2) Any person liable for reporting under this chapter who  
729 fails to meet the requirements of this section within 3 months  
730 after notification of such failure by the department shall, in  
731 addition to all other penalties prescribed by this chapter, be  
732 subject to an additional penalty of \$5,000 for each month such  
733 failure continues.

734 Section 17. Subsection (1) of section 206.86, Florida  
735 Statutes, is amended, and subsections (14) and (15) are added to  
736 said section, to read:

737 206.86 Definitions.--As used in this part:

738 (1) "Diesel fuel" means all petroleum distillates commonly  
739 known as diesel #2, biodiesel, or any other product blended with  
740 diesel or any product placed into the storage supply tank of a  
741 diesel-powered motor vehicle.

742 (14) "Biodiesel" means any product made from nonpetroleum-  
743 based oils or fats which is suitable for use in diesel-powered  
744 engines. Biodiesel is also referred to as "alkyl esters."

745 (15) "Biodiesel manufacturer" means those industrial  
746 plants, regardless of capacity, at which organic products are



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747 used in the production of biodiesel. Biodiesel manufacturer  
 748 includes businesses that process or blend organic products that  
 749 are marketed as biodiesel.

750 Section 18. Section 206.89, Florida Statutes, is amended  
 751 to read:

752 206.89 Licenses; necessity; prerequisites; issuance;  
 753 nonassignability.--

754 (1)(a) A ~~Ne~~ person may not ~~shall~~ act as a retailer  
 755 ~~wholesaler~~ of alternative fuel unless he or she holds a valid  
 756 retailer ~~wholesaler~~ of alternative fuel license issued by the  
 757 department. A person who has no facilities for placing diesel  
 758 fuel into the supply system of a motor vehicle and who sells  
 759 into containers of 5 gallons or less is ~~shall~~ not ~~be~~ required to  
 760 be licensed as a retailer ~~wholesaler~~ of alternative fuel.

761 (b) Any person who acts as a retailer ~~wholesaler~~ of  
 762 alternative fuel and does not hold a valid retailer ~~wholesaler~~  
 763 of alternative fuel license shall pay a penalty of 25 percent of  
 764 the tax assessed on the total purchases.

765 (2) To procure a retailer ~~wholesaler~~ of alternative fuel  
 766 license, a person shall file with the department an application  
 767 in such form as the department may prescribe, with a bond. A ~~Ne~~  
 768 license may not ~~shall~~ be issued upon any application unless  
 769 accompanied by such bond, except as provided in s. 206.90(1).

770 (3) When an application for a retailer ~~wholesaler~~ of  
 771 alternative fuel license is filed by a person whose license has  
 772 been canceled for cause by the department or when the department  
 773 is of the opinion that such application is not filed in good  
 774 faith or is filed by some person as a subterfuge for the real  
 775 person in interest whose license has theretofore been canceled,



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776 the department may ~~shall have authority~~, if the evidence  
 777 warrants, ~~to~~ refuse to issue ~~to~~ that person a license.

778 (4) At the time of filing an application for a license, a  
 779 filing fee of \$5 shall be paid to the department for deposit  
 780 into the General Revenue Fund.

781 (5) All requirements of this section having been complied  
 782 with, the department shall issue to the applicant a license, and  
 783 such license shall remain in effect until canceled as provided  
 784 in this part.

785 (6) Such license may ~~shall~~ not be assigned ~~assignable~~ and  
 786 is ~~shall be~~ valid only for the retailer ~~wholesaler~~ of  
 787 alternative fuel in whose name it is issued. It shall be  
 788 displayed conspicuously by the retailer ~~wholesaler~~ of  
 789 alternative fuel in the principal place of business for which it  
 790 was issued.

791 (7) Every person as defined in this part, except those  
 792 licensed under this chapter, including, but not limited to, a  
 793 state agency, federal agency, municipality, county, or special  
 794 district, which operates as a retailer ~~wholesaler~~ of alternative  
 795 fuel shall ~~and~~ report monthly to the department and, ~~or~~ pay tax  
 796 on all fuel purchases.

797 Section 19. Paragraph (d) of subsection (2) of section  
 798 212.055, Florida Statutes, is amended to read:

799 212.055 Discretionary sales surtaxes; legislative intent;  
 800 authorization and use of proceeds.--It is the legislative intent  
 801 that any authorization for imposition of a discretionary sales  
 802 surtax shall be published in the Florida Statutes as a  
 803 subsection of this section, irrespective of the duration of the  
 804 levy. Each enactment shall specify the types of counties  
 805 authorized to levy; the rate or rates which may be imposed; the



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806 maximum length of time the surtax may be imposed, if any; the  
 807 procedure which must be followed to secure voter approval, if  
 808 required; the purpose for which the proceeds may be expended;  
 809 and such other requirements as the Legislature may provide.  
 810 Taxable transactions and administrative procedures shall be as  
 811 provided in s. 212.054.

812 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

813 (d)1. The proceeds of the surtax authorized by this  
 814 subsection and any interest accrued thereto shall be expended by  
 815 the school district or within the county and municipalities  
 816 within the county, or, in the case of a negotiated joint county  
 817 agreement, within another county, to finance, plan, and  
 818 construct infrastructure and to acquire land for public  
 819 recreation or conservation or protection of natural resources  
 820 and to finance the closure of county-owned or municipally owned  
 821 solid waste landfills that are already closed or are required to  
 822 close by order of the Department of Environmental Protection.  
 823 Any use of such proceeds or interest for purposes of landfill  
 824 closure prior to July 1, 1993, is ratified. Neither the proceeds  
 825 nor any interest accrued thereto shall be used for operational  
 826 expenses of any infrastructure, except that any county with a  
 827 population of less than 75,000 that is required to close a  
 828 landfill by order of the Department of Environmental Protection  
 829 may use the proceeds or any interest accrued thereto for long-  
 830 term maintenance costs associated with landfill closure and  
 831 except that a charter county which is a member of a three-county  
 832 expressway or transit authority created by law, and at least one  
 833 of the three member counties is eligible to levy the tax  
 834 pursuant to s. 125.0104(3)(m), may use the proceeds or any  
 835 interests accrued thereto for operation and maintenance of a



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836 transit system. Counties, as defined in s. 125.011(1), and  
837 charter counties may, in addition, use the proceeds and any  
838 interest accrued thereto to retire or service indebtedness  
839 incurred for bonds issued prior to July 1, 1987, for  
840 infrastructure purposes, and for bonds subsequently issued to  
841 refund such bonds. Any use of such proceeds or interest for  
842 purposes of retiring or servicing indebtedness incurred for such  
843 refunding bonds prior to July 1, 1999, is ratified.

844 2. For the purposes of this paragraph, "infrastructure"  
845 means:

846 a. Any fixed capital expenditure or fixed capital outlay  
847 associated with the construction, reconstruction, or improvement  
848 of public facilities which have a life expectancy of 5 or more  
849 years and any land acquisition, land improvement, design, and  
850 engineering costs related thereto.

851 b. A fire department vehicle, an emergency medical service  
852 vehicle, a sheriff's office vehicle, a police department  
853 vehicle, or any other vehicle, and such equipment necessary to  
854 outfit the vehicle for its official use or equipment that has a  
855 life expectancy of at least 5 years.

856 3. Notwithstanding any other provision of this subsection,  
857 a discretionary sales surtax imposed or extended after the  
858 effective date of this act may provide for an amount not to  
859 exceed 15 percent of the local option sales surtax proceeds to  
860 be allocated for deposit to a trust fund within the county's  
861 accounts created for the purpose of funding economic development  
862 projects of a general public purpose targeted to improve local  
863 economies, including the funding of operational costs and  
864 incentives related to such economic development. The ballot



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865 statement must indicate the intention to make an allocation  
 866 under the authority of this subparagraph.

867 Section 20. Effective January 1, 2004, subsections (2) and  
 868 (3) of section 212.0606, Florida Statutes, are amended to read:

869 212.0606 Rental car surcharge.--

870 (2)(a) Notwithstanding the provisions of section 212.20,  
 871 and less costs of administration, 80 percent of the proceeds of  
 872 this surcharge shall be deposited in the State Transportation  
 873 Trust Fund, 15.75 percent of the proceeds of this surcharge  
 874 shall be deposited in the Tourism Promotional Trust Fund created  
 875 in s. 288.122, and 4.25 percent of the proceeds of this  
 876 surcharge shall be deposited in the Florida International Trade  
 877 and Promotion Trust Fund. For the purposes of this subsection,  
 878 "proceeds" of the surcharge means all funds collected and  
 879 received by the department under this section, including  
 880 interest and penalties on delinquent surcharges. The department  
 881 shall provide to the Department of Transportation rental car  
 882 surcharge revenues for the previous state fiscal year by  
 883 September 1 of each year.

884 (b) Notwithstanding any other provision of law, in fiscal  
 885 year 2007-2008 and each year thereafter, the proceeds deposited  
 886 in the State Transportation Trust Fund shall be allocated on an  
 887 annual basis in the Department of Transportation's work program  
 888 to each department district, except the Turnpike District. The  
 889 amount allocated for each district shall be based upon the  
 890 amount of proceeds attributed to ~~collected in~~ the counties  
 891 within each respective district.

892 (3)(a) Except as provided in this section, the department  
 893 shall administer, collect, and enforce the surcharge as provided  
 894 in this chapter. The provisions of this chapter which apply to



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895 interest and penalties on delinquent taxes shall apply to the  
 896 surcharge. The surcharge shall not be included in the  
 897 calculation of estimated taxes pursuant to s. 212.11. The  
 898 dealer's credit provided in s. 212.12 shall not apply to any  
 899 amount collected under this section.

900 (b) The department shall require dealers to report  
 901 surcharge collections according to the county to which the  
 902 surcharge was attributed. For purposes of this paragraph, the  
 903 surcharge shall be attributed to the county in which the rental  
 904 agreement was entered into.

905 (c) Dealers who collect the rental car surcharge shall  
 906 report all surcharge revenues attributed to the county in which  
 907 the rental agreement was entered into to the department on a  
 908 timely filed return for each required reporting period.

909 Section 21. Paragraph (a) of subsection (4) and paragraph  
 910 (o) of subsection (5) of section 212.08, Florida Statutes, are  
 911 amended, and paragraph (ccc) is added to subsection (7) of said  
 912 section, to read:

913 212.08 Sales, rental, use, consumption, distribution, and  
 914 storage tax; specified exemptions.--The sale at retail, the  
 915 rental, the use, the consumption, the distribution, and the  
 916 storage to be used or consumed in this state of the following  
 917 are hereby specifically exempt from the tax imposed by this  
 918 chapter.

919 (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES, ETC.--

920 (a) Also exempt are:

921 1. Water delivered to the purchaser through pipes or  
 922 conduits or delivered for irrigation purposes. The sale of  
 923 drinking water in bottles, cans, or other containers, including  
 924 water that contains minerals or carbonation in its natural state



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925 or water to which minerals have been added at a water treatment  
926 facility regulated by the Department of Environmental Protection  
927 or the Department of Health, is exempt. This exemption does not  
928 apply to the sale of drinking water in bottles, cans, or other  
929 containers if carbonation or flavorings, except those added at a  
930 water treatment facility, have been added. Water that has been  
931 enhanced by the addition of minerals and that does not contain  
932 any added carbonation or flavorings is also exempt.

933 2. All fuels used by a public or private utility,  
934 including any municipal corporation or rural electric  
935 cooperative association, in the generation of electric power or  
936 energy for sale. Fuel other than motor fuel and diesel fuel is  
937 taxable as provided in this chapter with the exception of fuel  
938 expressly exempt herein. Motor fuels and diesel fuels are  
939 taxable as provided in chapter 206, with the exception of those  
940 motor fuels and diesel fuels used by railroad locomotives or  
941 vessels to transport persons or property in interstate or  
942 foreign commerce, which are taxable under this chapter only to  
943 the extent provided herein. The basis of the tax shall be the  
944 ratio of intrastate mileage to interstate or foreign mileage  
945 traveled by the carrier's railroad locomotives or vessels that  
946 were used in interstate or foreign commerce and that had at  
947 least some Florida mileage during the previous fiscal year of  
948 the carrier, such ratio to be determined at the close of the  
949 fiscal year of the carrier. However, during the fiscal year in  
950 which the carrier begins its initial operations in this state,  
951 the carrier's mileage apportionment factor may be determined on  
952 the basis of an estimated ratio of anticipated miles in this  
953 state to anticipated total miles for that year and,  
954 subsequently, additional tax shall be paid on the motor fuel and





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955 diesel fuels, or a refund may be applied for, on the basis of  
 956 the actual ratio of the carrier's railroad locomotives' or  
 957 vessels' miles in this state to its total miles for that year.  
 958 This ratio shall be applied each month to the total Florida  
 959 purchases made in this state of motor and diesel fuels to  
 960 establish that portion of the total used and consumed in  
 961 intrastate movement and subject to tax under this chapter. The  
 962 basis for imposition of any discretionary surtax shall be set  
 963 forth in s. 212.054. Fuels used exclusively in intrastate  
 964 commerce do not qualify for the proration of tax.

965 3. The transmission or wheeling of electricity.

966 (5) EXEMPTIONS; ACCOUNT OF USE.--

967 (o) *Building materials in redevelopment projects.*--

968 1. As used in this paragraph, the term:

969 a. "Building materials" means tangible personal property  
 970 that becomes a component part of a housing project or a mixed-  
 971 use project.

972 b. "Housing project" means the conversion of an existing  
 973 manufacturing or industrial building to housing units in an  
 974 urban high-crime area, enterprise zone, empowerment zone, Front  
 975 Porch Community, designated brownfield area, or urban infill  
 976 area and in which the developer agrees to set aside at least 20  
 977 percent of the housing units in the project for low-income and  
 978 moderate-income persons, or the construction in a designated  
 979 brownfield area of affordable housing for persons described in  
 980 s. 420.0004(9), (10), or (14) or in s. 159.603(7).

981 c. "Mixed-use project" means the conversion of an existing  
 982 manufacturing or industrial building to mixed-use units that  
 983 include artists' studios, art and entertainment services, or  
 984 other compatible uses. A mixed-use project must be located in an



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985 urban high-crime area, enterprise zone, empowerment zone, Front  
986 Porch Community, designated brownfield area, or urban infill  
987 area, and the developer must agree to set aside at least 20  
988 percent of the square footage of the project for low-income and  
989 moderate-income housing.

990 d. "Substantially completed" has the same meaning as  
991 provided in s. 192.042(1).

992 2. Building materials used in the construction of a  
993 housing project or mixed-use project are exempt from the tax  
994 imposed by this chapter upon an affirmative showing to the  
995 satisfaction of the department that the requirements of this  
996 paragraph have been met. This exemption inures to the owner  
997 through a refund of previously paid taxes. To receive this  
998 refund, the owner must file an application under oath with the  
999 department which includes:

1000 a. The name and address of the owner.

1001 b. The address and assessment roll parcel number of the  
1002 project for which a refund is sought.

1003 c. A copy of the building permit issued for the project.

1004 d. A certification by the local building code inspector  
1005 that the project is substantially completed.

1006 e. A sworn statement, under penalty of perjury, from the  
1007 general contractor licensed in this state with whom the owner  
1008 contracted to construct the project, which statement lists the  
1009 building materials used in the construction of the project and  
1010 the actual cost thereof, and the amount of sales tax paid on  
1011 these materials. If a general contractor was not used, the owner  
1012 shall provide this information in a sworn statement, under  
1013 penalty of perjury. Copies of invoices evidencing payment of  
1014 sales tax must be attached to the sworn statement.



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1015           3. An application for a refund under this paragraph must  
 1016 be submitted to the department within 6 months after the date  
 1017 the project is deemed to be substantially completed by the local  
 1018 building code inspector. Within 30 working days after receipt of  
 1019 the application, the department shall determine if it meets the  
 1020 requirements of this paragraph. A refund approved pursuant to  
 1021 this paragraph shall be made within 30 days after formal  
 1022 approval of the application by the department. The provisions of  
 1023 s. 212.095 do not apply to any refund application made under  
 1024 this paragraph.

1025           4. The department shall establish by rule an application  
 1026 form and criteria for establishing eligibility for exemption  
 1027 under this paragraph.

1028           5. The exemption shall apply to purchases of materials on  
 1029 or after July 1, 2000.

1030           (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any  
 1031 entity by this chapter do not inure to any transaction that is  
 1032 otherwise taxable under this chapter when payment is made by a  
 1033 representative or employee of the entity by any means,  
 1034 including, but not limited to, cash, check, or credit card, even  
 1035 when that representative or employee is subsequently reimbursed  
 1036 by the entity. In addition, exemptions provided to any entity by  
 1037 this subsection do not inure to any transaction that is  
 1038 otherwise taxable under this chapter unless the entity has  
 1039 obtained a sales tax exemption certificate from the department  
 1040 or the entity obtains or provides other documentation as  
 1041 required by the department. Eligible purchases or leases made  
 1042 with such a certificate must be in strict compliance with this  
 1043 subsection and departmental rules, and any person who makes an  
 1044 exempt purchase with a certificate that is not in strict



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1045 compliance with this subsection and the rules is liable for and  
 1046 shall pay the tax. The department may adopt rules to administer  
 1047 this subsection.

1048 (ccc) Low speed vehicles.--Also exempt from the tax  
 1049 imposed by this chapter are low speed vehicles as defined in s.  
 1050 320.01(42).

1051 Section 22. Paragraph (e) of subsection (4) of section  
 1052 212.11, Florida Statutes, is amended to read:

1053 212.11 Tax returns and regulations.--  
 1054 (4)

1055 (e) The penalty provisions of this chapter, except s.  
 1056 212.12(2)(f)~~(e)~~, apply to the provisions of this subsection.

1057 Section 23. Subsections (1), (2), (9), (10), and (11) of  
 1058 section 212.12, Florida Statutes, are amended to read:

1059 212.12 Dealer's credit for collecting tax; penalties for  
 1060 noncompliance; powers of Department of Revenue in dealing with  
 1061 delinquents; brackets applicable to taxable transactions;  
 1062 records required.--

1063 (1) Notwithstanding any other provision of law and for the  
 1064 purpose of compensating persons granting licenses for and the  
 1065 lessors of real and personal property taxed hereunder, for the  
 1066 purpose of compensating dealers in tangible personal property,  
 1067 for the purpose of compensating dealers providing communication  
 1068 services and taxable services, for the purpose of compensating  
 1069 owners of places where admissions are collected, and for the  
 1070 purpose of compensating remitters of any taxes or fees reported  
 1071 on the same documents utilized for the sales and use tax, as  
 1072 compensation for the keeping of prescribed records, filing  
 1073 timely tax returns, and the proper accounting and remitting of  
 1074 taxes by them, such seller, person, lessor, dealer, owner, and



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1075 remitter (except dealers who make mail order sales) shall be  
1076 allowed 2.5 percent of the amount of the tax due and accounted  
1077 for and remitted to the department, in the form of a deduction  
1078 in submitting his or her report and paying the amount due by him  
1079 or her; the department shall allow such deduction of 2.5 percent  
1080 of the amount of the tax to the person paying the same for  
1081 remitting the tax and making of tax returns in the manner herein  
1082 provided, for paying the amount due to be paid by him or her,  
1083 and as further compensation to dealers in tangible personal  
1084 property for the keeping of prescribed records and for  
1085 collection of taxes and remitting the same. However, if the  
1086 amount of the tax due and remitted to the department for the  
1087 reporting period exceeds \$1,200, no allowance shall be allowed  
1088 for all amounts in excess of \$1,200. The executive director of  
1089 the department is authorized to negotiate a collection  
1090 allowance, pursuant to rules promulgated by the department, with  
1091 a dealer who makes mail order sales. The rules of the department  
1092 shall provide guidelines for establishing the collection  
1093 allowance based upon the dealer's estimated costs of collecting  
1094 the tax, the volume and value of the dealer's mail order sales  
1095 to purchasers in this state, and the administrative and legal  
1096 costs and likelihood of achieving collection of the tax absent  
1097 the cooperation of the dealer. However, in no event shall the  
1098 collection allowance negotiated by the executive director exceed  
1099 10 percent of the tax remitted for a reporting period.

1100 ~~(a) The collection allowance may not be granted, nor may~~  
1101 ~~any deduction be permitted, if the required tax return or tax is~~  
1102 ~~delinquent at the time of payment.~~



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1103        ~~(a)(b)~~ The Department of Revenue may deny the collection  
1104 allowance if a taxpayer files an incomplete return or if the  
1105 required tax return or tax is delinquent at the time of payment.

1106            1. An "incomplete return" is, for purposes of this  
1107 chapter, a return which is lacking such uniformity,  
1108 completeness, and arrangement that the physical handling,  
1109 verification, review of the return, or determination of other  
1110 taxes and fees reported on the return may not be readily  
1111 accomplished.

1112            2. The department shall adopt rules requiring such  
1113 information as it may deem necessary to ensure that the tax  
1114 levied hereunder is properly collected, reviewed, compiled,  
1115 reported, and enforced, including, but not limited to: the  
1116 amount of gross sales; the amount of taxable sales; the amount  
1117 of tax collected or due; the amount of lawful refunds,  
1118 deductions, or credits claimed; the amount claimed as the  
1119 dealer's collection allowance; the amount of penalty and  
1120 interest; the amount due with the return; and such other  
1121 information as the Department of Revenue may specify. The  
1122 department shall require that transient rentals and agricultural  
1123 equipment transactions be separately shown. Sales made through  
1124 vending machines as defined in s. 212.0515 must be separately  
1125 shown on the return. Sales made through coin-operated amusement  
1126 machines as defined by s. 212.02 and the number of machines  
1127 operated must be separately shown on the return or on a form  
1128 prescribed by the department. If a separate form is required,  
1129 the same penalties for late filing, incomplete filing, or  
1130 failure to file as provided for the sales tax return shall apply  
1131 to said form.



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1132        (b)~~(e)~~ The collection allowance and other credits or  
 1133        deductions provided in this chapter shall be applied  
 1134        proportionally to any taxes or fees reported on the same  
 1135        documents used for the sales and use tax.

1136        (2)(a) When any person, ~~firm, or corporation~~ required  
 1137        hereunder to make any return or to pay any tax or fee imposed by  
 1138        this chapter fails to timely file such return or fails to pay  
 1139        the tax or fee shown due on the return within the time required  
 1140        hereunder, in addition to all other penalties provided herein  
 1141        and by the laws of this state in respect to such taxes or fees,  
 1142        a specific penalty shall be added to the tax or fee in the  
 1143        amount of 10 percent of the tax or fee shown on the return that  
 1144        is not timely filed or any unpaid tax or fee not timely paid ~~if~~  
 1145        ~~the failure is for not more than 30 days, with an additional 10~~  
 1146        ~~percent of any unpaid tax or fee for each additional 30 days, or~~  
 1147        ~~fraction thereof, during the time which the failure continues,~~  
 1148        ~~not to exceed a total penalty of 50 percent, in the aggregate,~~  
 1149        ~~of any unpaid tax or fee. In no event may~~ The penalty may not be  
 1150        less than \$50 ~~\$10~~ for failure to timely file a tax return  
 1151        required by s. 212.11(1)~~(b)~~ or timely pay the tax or fee shown  
 1152        due on the return except as provided in s. 213.21(10). If a  
 1153        person fails to timely file a return required by s. 212.11(1)  
 1154        and to timely pay the tax or fee shown due on the return, only  
 1155        one penalty of 10 percent, a minimum of \$50, shall be imposed ~~\$5~~  
 1156        ~~for failure to timely file a tax return authorized by s.~~  
 1157        ~~212.11(1)(c) or (d).~~

1158        (b) When any person required under this section to make a  
 1159        return or to pay a tax or fee imposed by this chapter fails to  
 1160        disclose the tax or fee on the return within the time required,  
 1161        excluding a noncompliant filing event generated by situations



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1162 covered in paragraph (a), in addition to all other penalties  
1163 provided in this section and by the laws of this state in  
1164 respect to such taxes or fees, a specific penalty shall be added  
1165 to the additional tax or fee owed in the amount of 10 percent of  
1166 any such unpaid tax or fee not paid timely if the failure is for  
1167 not more than 30 days, with an additional 10 percent of any such  
1168 unpaid tax or fee for each additional 30 days, or fraction  
1169 thereof, while the failure continues, not to exceed a total  
1170 penalty of 50 percent, in the aggregate, of any unpaid tax or  
1171 fee.

1172 (c)(b) Any person who knowingly and with a willful intent  
1173 to evade any tax imposed under this chapter fails to file six  
1174 consecutive returns as required by law commits a felony of the  
1175 third degree, punishable as provided in s. 775.082 or s.  
1176 775.083.

1177 (d)(e) Any person who makes a false or fraudulent return  
1178 with a willful intent to evade payment of any tax or fee imposed  
1179 under this chapter shall, in addition to the other penalties  
1180 provided by law, be liable for a specific penalty of 100 percent  
1181 of the tax bill or fee and, upon conviction, for fine and  
1182 punishment as provided in s. 775.082, s. 775.083, or s. 775.084.

1183 1. If the total amount of unreported taxes or fees is less  
1184 than \$300, the first offense resulting in conviction is a  
1185 misdemeanor of the second degree, the second offense resulting  
1186 in conviction is a misdemeanor of the first degree, and the  
1187 third and all subsequent offenses resulting in conviction are  
1188 felonies of the third degree.

1189 2. If the total amount of unreported taxes or fees is \$300  
1190 or more but less than \$20,000, the offense is a felony of the  
1191 third degree.





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1192 3. If the total amount of unreported taxes or fees is  
1193 \$20,000 or more but less than \$100,000, the offense is a felony  
1194 of the second degree.

1195 4. If the total amount of unreported taxes or fees is  
1196 \$100,000 or more, the offense is a felony of the first degree.

1197 (e)~~(d)~~ When any person, firm, or corporation fails to  
1198 timely remit the proper estimated payment required under s.  
1199 212.11, a specific penalty shall be added in an amount equal to  
1200 10 percent of any unpaid estimated tax. Beginning with January  
1201 1, 1985, returns, the department, upon a showing of reasonable  
1202 cause, is authorized to waive or compromise penalties imposed by  
1203 this paragraph. However, other penalties and interest shall be  
1204 due and payable if the return on which the estimated payment was  
1205 due was not timely or properly filed.

1206 (f)~~(e)~~ Dealers filing a consolidated return pursuant to s.  
1207 212.11(1)(e) shall be subject to the penalty established in  
1208 paragraph (e)~~(d)~~ unless the dealer has paid the required  
1209 estimated tax for his or her consolidated return as a whole  
1210 without regard to each location. If the dealer fails to pay the  
1211 required estimated tax for his or her consolidated return as a  
1212 whole, each filing location shall stand on its own with respect  
1213 to calculating penalties pursuant to paragraph (e)~~(d)~~.

1214 (9) Taxes imposed by this chapter upon the privilege of  
1215 the use, consumption, storage for consumption, or sale of  
1216 tangible personal property, admissions, license fees, rentals,  
1217 communication services, and upon the sale or use of services as  
1218 herein taxed shall be collected upon the basis of an addition of  
1219 the tax imposed by this chapter to the total price of such  
1220 admissions, license fees, rentals, communication or other  
1221 services, or sale price of such article or articles that are



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1222 purchased, sold, or leased at any one time by or to a customer  
 1223 or buyer; the dealer, or person charged herein, is required to  
 1224 pay a privilege tax in the amount of the tax imposed by this  
 1225 chapter on the total of his or her gross sales of tangible  
 1226 personal property, admissions, license fees, rentals, and  
 1227 communication services or to collect a tax upon the sale or use  
 1228 of services, and such person or dealer shall add the tax imposed  
 1229 by this chapter to the price, license fee, rental, or  
 1230 admissions, and communication or other services and collect the  
 1231 total sum from the purchaser, admittee, licensee, lessee, or  
 1232 consumer. The department shall make available in an electronic  
 1233 format or otherwise the tax amounts and ~~Notwithstanding the rate~~  
 1234 ~~of taxes imposed upon the privilege of sales, admissions,~~  
 1235 ~~license fees, rentals, and communication services, or upon the~~  
 1236 ~~sale or use of services,~~ the following brackets shall be  
 1237 applicable to all transactions taxable at the rate of 6 percent:  
 1238 (a) On single sales of less than 10 cents, no tax shall be  
 1239 added.  
 1240 (b) On single sales in amounts from 10 cents to 16 cents,  
 1241 both inclusive, 1 cent shall be added for taxes.  
 1242 (c) On sales in amounts from 17 cents to 33 cents, both  
 1243 inclusive, 2 cents shall be added for taxes.  
 1244 (d) On sales in amounts from 34 cents to 50 cents, both  
 1245 inclusive, 3 cents shall be added for taxes.  
 1246 (e) On sales in amounts from 51 cents to 66 cents, both  
 1247 inclusive, 4 cents shall be added for taxes.  
 1248 (f) On sales in amounts from 67 cents to 83 cents, both  
 1249 inclusive, 5 cents shall be added for taxes.  
 1250 (g) On sales in amounts from 84 cents to \$1, both  
 1251 inclusive, 6 cents shall be added for taxes.



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1252 (h) On sales in amounts of more than \$1, 6 percent shall  
 1253 be charged upon each dollar of price, plus the appropriate  
 1254 bracket charge upon any fractional part of a dollar.

1255 (10) In counties which have adopted a discretionary sales  
 1256 surtax at the rate of 1 percent, the department shall make  
 1257 available in an electronic format or otherwise the tax amounts  
 1258 and the following brackets shall be applicable to all taxable  
 1259 transactions that ~~which~~ would otherwise have been transactions  
 1260 taxable at the rate of 6 percent:

1261 (a) On single sales of less than 10 cents, no tax shall be  
 1262 added.

1263 (b) On single sales in amounts from 10 cents to 14 cents,  
 1264 both inclusive, 1 cent shall be added for taxes.

1265 (c) On sales in amounts from 15 cents to 28 cents, both  
 1266 inclusive, 2 cents shall be added for taxes.

1267 (d) On sales in amounts from 29 cents to 42 cents, both  
 1268 inclusive, 3 cents shall be added for taxes.

1269 (e) On sales in amounts from 43 cents to 57 cents, both  
 1270 inclusive, 4 cents shall be added for taxes.

1271 (f) On sales in amounts from 58 cents to 71 cents, both  
 1272 inclusive, 5 cents shall be added for taxes.

1273 (g) On sales in amounts from 72 cents to 85 cents, both  
 1274 inclusive, 6 cents shall be added for taxes.

1275 (h) On sales in amounts from 86 cents to \$1, both  
 1276 inclusive, 7 cents shall be added for taxes.

1277 (i) On sales in amounts from \$1 up to, and including, the  
 1278 first \$5,000 in price, 7 percent shall be charged upon each  
 1279 dollar of price, plus the appropriate bracket charge upon any  
 1280 fractional part of a dollar.



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1281 (j) On sales in amounts of more than \$5,000 in price, 7  
1282 percent shall be added upon the first \$5,000 in price, and 6  
1283 percent shall be added upon each dollar of price in excess of  
1284 the first \$5,000 in price, plus the bracket charges upon any  
1285 fractional part of a dollar as provided for in subsection (9).

1286 (11) The department shall make available in an electronic  
1287 format or otherwise ~~is authorized to provide by rule~~ the tax  
1288 amounts and brackets applicable to all taxable transactions that  
1289 occur in counties that have a surtax at a rate other than 1  
1290 percent which transactions would otherwise have been  
1291 transactions taxable at the rate of 6 percent. Likewise, the  
1292 department shall make available in an electronic format or  
1293 otherwise ~~is authorized to promulgate by rule~~ the tax amounts  
1294 and brackets applicable to transactions taxable at 2.5 or 3  
1295 percent pursuant to s. 212.08(3), transactions taxable at 7  
1296 percent pursuant to s. 212.05(1)(e), and on transactions which  
1297 would otherwise have been so taxable in counties which have  
1298 adopted a discretionary sales surtax.

1299 Section 24. Paragraph (n) of subsection (7) of section  
1300 213.053, Florida Statutes, is amended, and paragraph (x) is  
1301 added to said subsection, to read:

1302 213.053 Confidentiality and information sharing.--

1303 (7) Notwithstanding any other provision of this section,  
1304 the department may provide:

1305 (n) Information contained in returns, reports, accounts,  
1306 or declarations to the Board of Accountancy in connection with a  
1307 disciplinary proceeding conducted pursuant to chapter 473 when  
1308 related to a certified public accountant participating in the  
1309 certified audits project, or to the court in connection with a  
1310 civil proceeding brought by the department relating to a claim



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1311 for recovery of taxes due to negligence on the part of a  
 1312 certified public accountant participating in the certified  
 1313 audits project. In any judicial proceeding brought by the  
 1314 department, upon motion for protective order, the court shall  
 1315 limit disclosure of tax information when necessary to effectuate  
 1316 the purposes of this section. ~~This paragraph is repealed on July~~  
 1317 ~~1, 2006.~~

1318 (x) Rental car surcharge revenues authorized by s.  
 1319 212.0606, reported according to the county to which the  
 1320 surcharge was attributed to the Department of Transportation.

1321  
 1322 Disclosure of information under this subsection shall be  
 1323 pursuant to a written agreement between the executive director  
 1324 and the agency. Such agencies, governmental or nongovernmental,  
 1325 shall be bound by the same requirements of confidentiality as  
 1326 the Department of Revenue. Breach of confidentiality is a  
 1327 misdemeanor of the first degree, punishable as provided by s.  
 1328 775.082 or s. 775.083.

1329 Section 25. Subsection (4) of section 213.0535, Florida  
 1330 Statutes, is amended to read:

1331 213.0535 Registration Information Sharing and Exchange  
 1332 Program.--

1333 (4) There are two levels of participation:

1334 (a) Each unit of state or local government responsible for  
 1335 administering one or more of the provisions specified in  
 1336 subparagraphs 1.-7. is a level-one participant. Level-one  
 1337 participants shall exchange, monthly or quarterly, as determined  
 1338 jointly by each participant and the department, the data  
 1339 enumerated in subsection (2) for each new registrant, new filer,



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1340 or initial reporter, permittee, or licensee, with respect to the  
 1341 following taxes, licenses, or permits:

- 1342 1. The sales and use tax imposed under chapter 212.
- 1343 2. The tourist development tax imposed under s. 125.0104.
- 1344 3. The tourist impact tax imposed under s. 125.0108.
- 1345 4. Local occupational license taxes imposed under chapter  
 1346 205.
- 1347 5. Convention development taxes imposed under s. 212.0305.
- 1348 6. Public lodging and food service establishment licenses  
 1349 issued pursuant to chapter 509.
- 1350 7. Beverage law licenses issued pursuant to chapter 561.
- 1351 8. A municipal resort tax as authorized under chapter 67-  
 1352 930, Laws of Florida.

1353 (b) Level-two participants include the Department of  
 1354 Revenue and local officials responsible for collecting the  
 1355 tourist development tax pursuant to s. 125.0104, the tourist  
 1356 impact tax pursuant to s. 125.0108, ~~or~~ a convention development  
 1357 tax pursuant to s. 212.0305, or a municipal resort tax as  
 1358 authorized under chapter 67-930, Laws of Florida. Level-two  
 1359 participants shall, in addition to the data shared by level-one  
 1360 participants, exchange data relating to tax payment history,  
 1361 audit assessments, and registration cancellations of dealers  
 1362 engaging in transient rentals, and such data may relate only to  
 1363 sales and use taxes, tourist development taxes, ~~and~~ convention  
 1364 development taxes, and municipal resort taxes. The department  
 1365 shall prescribe, by rule, the data elements to be shared and the  
 1366 frequency of sharing; however, audit assessments must be shared  
 1367 at least quarterly.

1368 (c) A level-two participant may disclose information as  
 1369 provided in paragraph (b) in response to a request for such



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1370 information from any other level-two participant. Information  
 1371 relative to specific taxpayers shall be requested or disclosed  
 1372 under this paragraph only to the extent necessary in the  
 1373 administration of a tax or licensing provision as enumerated in  
 1374 paragraph (a). When a disclosure made under this paragraph  
 1375 involves confidential information provided to the participant by  
 1376 the Department of Revenue, the participant who provides the  
 1377 information shall maintain records of the disclosures, which  
 1378 records shall be subject to review by the Department of Revenue  
 1379 for a period of 5 years after the date of the disclosure.

1380 Section 26. Effective upon this act becoming a law,  
 1381 paragraph (a) of subsection (7) of section 213.21, Florida  
 1382 Statutes, is amended to read:

1383 213.21 Informal conferences; compromises.--

1384 (7)(a) When a taxpayer voluntarily self-discloses a  
 1385 liability for tax to the department, the department may settle  
 1386 and compromise the tax and interest due under the voluntary  
 1387 self-disclosure to those amounts due for the 3 ~~5~~ years  
 1388 immediately preceding the date that the taxpayer initially  
 1389 contacted the department concerning the voluntary self-  
 1390 disclosure. For purposes of this paragraph, the term "years"  
 1391 means tax years or calendar years, whichever is applicable to  
 1392 the tax that is voluntarily self-disclosed. A voluntary self-  
 1393 disclosure does not occur if the department has contacted or  
 1394 informed the taxpayer that the department is inquiring into the  
 1395 taxpayer's liability for tax or whether the taxpayer is subject  
 1396 to tax in this state.

1397 Section 27. The amendment to s. 213.21(7)(a), Florida  
 1398 Statutes, made by this act applies to any voluntary self-  
 1399 disclosure made to the Department of Revenue on or after that



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1400 date.

1401 Section 28. Subsection (8) of section 213.21, Florida  
 1402 Statutes, is amended to read:

1403 213.21 Informal conferences; compromises.--

1404 (8) In order to determine whether certified audits are an  
 1405 effective tool in the overall state tax collection effort, the  
 1406 executive director of the department or the executive director's  
 1407 designee shall settle or compromise penalty liabilities of  
 1408 taxpayers who participate in the certified audits project. As  
 1409 further incentive for participating in the program, the  
 1410 department shall abate the first \$25,000 of any interest  
 1411 liability and 25 percent of any interest due in excess of the  
 1412 first \$25,000. A settlement or compromise of penalties or  
 1413 interest pursuant to this subsection shall not be subject to the  
 1414 provisions of paragraph (3)(a), except for the requirement  
 1415 relating to confidentiality of records. The department may  
 1416 consider an additional compromise of tax or interest pursuant to  
 1417 the provisions of paragraph (3)(a). This subsection does not  
 1418 apply to any liability related to taxes collected but not  
 1419 remitted to the department. ~~This subsection is repealed on July~~  
 1420 ~~1, 2006.~~

1421 Section 29. Paragraph (c) of subsection (2) of section  
 1422 213.285, Florida Statutes, is amended to read:

1423 213.285 Certified audits.--

1424 (2)

1425 (c) The department shall submit a report to the President  
 1426 of the Senate, the Speaker of the House of Representatives, the  
 1427 chair of the Senate Committee on Finance and Taxation, and the  
 1428 chair of the House Committee on Finance and Tax, by January 1,  
 1429 2006, regarding the effectiveness of certified audits as a tool





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1430 in the overall state tax collection effort. The report shall  
1431 include statistics, from the time of the program's inception, on  
1432 taxes assessed and collected pursuant to the certified audits,  
1433 interest, and penalties compromised, the cost to the state to  
1434 support the certified audits project, and the impact, if any, on  
1435 taxpayer compliance. The Legislature will review the report at  
1436 that time to determine if any modifications should be made ~~The~~  
1437 ~~certified audits project is repealed on July 1, 2006, or upon~~  
1438 ~~completion of the project as determined by the department,~~  
1439 ~~whichever occurs first.~~

1440 Section 30. Paragraphs (c) and (d) of subsection (1) of  
1441 section 336.021, Florida Statutes, are amended to read:

1442 336.021 County transportation system; levy of ninth-cent  
1443 fuel tax on motor fuel and diesel fuel.--

1444 (1)

1445 (c) Local option taxes collected on sales or use of diesel  
1446 fuel in this state shall be distributed in the following manner:

1447 1. The fiscal year of July 1, 1995, through June 30, 1996,  
1448 shall be the base year for all distributions.

1449 2. Each year the tax collected, less the service and  
1450 administrative charges enumerated in s. 215.20 and the  
1451 allowances allowed under s. 206.91, on the number of gallons  
1452 reported, up to the total number of gallons reported in the base  
1453 year, shall be distributed to each county using the distribution  
1454 percentage calculated for the base year.

1455 3. After the distribution of taxes pursuant to  
1456 subparagraph 2., additional taxes available for distribution  
1457 shall first be distributed pursuant to this subparagraph. A  
1458 distribution shall be made to each county in which a qualified  
1459 new retail station is located. A qualified new retail station is



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1460 a retail station that began operation after June 30, 1996, and  
 1461 that has sales of diesel fuel exceeding 50 percent of the sales  
 1462 of diesel fuel reported in the county in which it is located  
 1463 during the 1995-1996 state fiscal year. The determination of  
 1464 whether a new retail station is qualified shall be based on the  
 1465 total gallons of diesel fuel sold at the station during each  
 1466 full month of operation during the 12-month period ending  
 1467 January ~~March~~ 31, divided by the number of full months of  
 1468 operation during those 12 months, and the result multiplied by  
 1469 12. The amount distributed pursuant to this subparagraph to each  
 1470 county in which a qualified new retail station is located shall  
 1471 equal the local option taxes due on the gallons of diesel fuel  
 1472 sold by the new retail station during the year ending January  
 1473 ~~March~~ 31, less the service charges enumerated in s. 215.20 and  
 1474 the dealer allowance provided for by s. 206.91. Gallons of  
 1475 diesel fuel sold at the qualified new retail station shall be  
 1476 certified to the department by the county requesting the  
 1477 additional distribution by June 15, 1997, and by March ~~May~~ 1 in  
 1478 each subsequent year. The certification shall include the  
 1479 beginning inventory, fuel purchases and sales, and the ending  
 1480 inventory for the new retail station for each month of operation  
 1481 during the year, the original purchase invoices for the period,  
 1482 and any other information the department deems reasonable and  
 1483 necessary to establish the certified gallons. The department may  
 1484 review and audit the retail dealer's records provided to a  
 1485 county to establish the gallons sold by the new retail station.  
 1486 Notwithstanding the provisions of this subparagraph, when more  
 1487 than one county qualifies for a distribution pursuant to this  
 1488 subparagraph and the requested distributions exceed the total



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1489 taxes available for distribution, each county shall receive a  
1490 prorated share of the moneys available for distribution.

1491 4. After the distribution of taxes pursuant to  
1492 subparagraph 3., all additional taxes available for distribution  
1493 shall be distributed based on vehicular diesel fuel storage  
1494 capacities in each county pursuant to this subparagraph. The  
1495 total vehicular diesel fuel storage capacity shall be  
1496 established for each fiscal year based on the registration of  
1497 facilities with the Department of Environmental Protection as  
1498 required by s. 376.303 for the following facility types: retail  
1499 stations, fuel user/nonretail, state government, local  
1500 government, and county government. Each county shall receive a  
1501 share of the total taxes available for distribution pursuant to  
1502 this subparagraph equal to a fraction, the numerator of which is  
1503 the storage capacity located within the county for vehicular  
1504 diesel fuel in the facility types listed in this subparagraph  
1505 and the denominator of which is the total statewide storage  
1506 capacity for vehicular diesel fuel in those facility types. The  
1507 vehicular diesel fuel storage capacity for each county and  
1508 facility type shall be that established by the Department of  
1509 Environmental Protection by June 1, 1997, for the 1996-1997  
1510 fiscal year, and by January 31 for each succeeding fiscal year.  
1511 The storage capacities so established shall be final. The  
1512 storage capacity for any new retail station for which a county  
1513 receives a distribution pursuant to subparagraph 3. shall not be  
1514 included in the calculations pursuant to this subparagraph.

1515 (d) The tax received by the department on motor fuel  
1516 pursuant to this subsection shall be distributed monthly by the  
1517 department to the county reported by the terminal suppliers,  
1518 wholesalers, and importers as the destination of the gallons



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1519 distributed for retail sale or use. The tax on diesel fuel shall  
1520 be distributed monthly by the department to each county as  
1521 provided in paragraph (c).

1522 Section 31. Effective January 1, 2004, subsection (20) of  
1523 section 443.036, Florida Statutes, is amended to read:

1524 443.036 Definitions.--As used in this chapter, unless the  
1525 context clearly requires otherwise:

1526 (20) EMPLOYING UNIT.--"Employing unit" means any  
1527 individual or type of organization, including any partnership,  
1528 limited liability company, association, trust, estate, joint-  
1529 stock company, insurance company, or corporation, whether  
1530 domestic or foreign; the receiver, trustee in bankruptcy,  
1531 trustee, or successor of any of the foregoing; or the legal  
1532 representative of a deceased person, which has or had in its  
1533 employ one or more individuals performing services for it within  
1534 this state.

1535 (a) Each individual employed to perform or to assist in  
1536 performing the work of any agent or employee of an employing  
1537 unit shall be deemed to be employed by such employing unit for  
1538 all the purposes of this chapter, whether such individual was  
1539 hired or paid directly by such employing unit or by such agent  
1540 or employee, provided the employing unit had actual or  
1541 constructive knowledge of the work.

1542 (b) All individuals performing services within this state  
1543 for any employing unit which maintains two or more separate  
1544 establishments within this state shall be deemed to be  
1545 performing services for a single employing unit for all the  
1546 purposes of this chapter.

1547 (c) Any person who is an officer of a corporation or a  
1548 member of a limited liability company classified as a



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1549 corporation for federal income tax purposes and who performs  
 1550 services for such corporation or limited liability company  
 1551 within this state, whether or not such services are continuous,  
 1552 shall be deemed an employee of the corporation or limited  
 1553 liability company during all of each week of his or her tenure  
 1554 of office, regardless of whether or not he or she is compensated  
 1555 for such services. Services shall be presumed to have been  
 1556 rendered the corporation in cases where such officer is  
 1557 compensated by means other than dividends upon shares of stock  
 1558 of such corporation owned by him or her.

1559 (d) A limited liability company shall be treated as having  
 1560 the same status as that under which it is classified for federal  
 1561 income tax purposes.

1562 Section 32. Effective January 1, 2004, paragraph (g) of  
 1563 subsection (3) of section 443.131, Florida Statutes, is amended  
 1564 to read:

1565 443.131 Contributions.--

1566 (3) CONTRIBUTION RATES BASED ON BENEFIT EXPERIENCE.--

1567 (g)1. For the purposes of this subsection, two or more  
 1568 employers who are parties to a transfer of business or the  
 1569 subject of a merger, consolidation, or other form of  
 1570 reorganization, effecting a change in legal identity or form,  
 1571 shall be deemed to be a single employer and shall be considered  
 1572 as one employer with a continuous employment record if the  
 1573 department ~~division~~ finds that the successor employer continues  
 1574 to carry on the employing enterprises of the predecessor  
 1575 employer or employers and that the successor employer has paid  
 1576 all contributions required of and due from the predecessor  
 1577 employer or employers and has assumed liability for all  
 1578 contributions that may become due from the predecessor employer



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1579 or employers. In addition, an employer may not be considered a  
1580 successor under this subparagraph if the employer purchases a  
1581 company with a lower rate into which employees with job  
1582 functions unrelated to the business endeavors of the predecessor  
1583 are transferred for the purpose of acquiring the low rate and  
1584 avoiding taxes. As used in this paragraph, the term  
1585 "contributions" means all indebtedness to the department  
1586 ~~division~~, including, but not limited to, interest, penalty,  
1587 collection fee, and service fee. A successor has 30 days from  
1588 the date of the official notification of liability by succession  
1589 to accept the transfer of the predecessor's or predecessors'  
1590 employment record or records. If the predecessor or predecessors  
1591 have unpaid contributions or outstanding quarterly reports, the  
1592 successor has 30 days from the date of the notice listing the  
1593 total amount due to pay the total amount with certified funds.  
1594 After the total indebtedness has been paid, the employment  
1595 record or records of the predecessor or predecessors will be  
1596 transferred to the successor. ~~Employment records may be~~  
1597 ~~transferred by the division.~~ The tax rate of total successor and  
1598 predecessor upon the transfer of employment records shall be  
1599 determined by the department ~~division~~ as prescribed by rule in  
1600 order to calculate any tax rate change resulting from the  
1601 transfer of employment records.

1602 2. Whether or not there is a transfer of employment record  
1603 as contemplated in this paragraph, the predecessor shall in the  
1604 event he or she again employs persons be treated as an employer  
1605 without previous employment record or, if his or her coverage  
1606 has been terminated as provided in s. 443.121, as a new  
1607 employing unit.



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1608           3. The division may provide by rule for partial transfer  
1609 of experience rating when an employer has transferred at any  
1610 time an identifiable and segregable portion of his or her  
1611 payrolls and business to a successor employing unit. As a  
1612 condition of such partial transfer of experience, the rules  
1613 shall require an application by the successor, agreement by the  
1614 predecessor, and such evidence as the division may prescribe of  
1615 the experience and payrolls attributable to the transferred  
1616 portion up to the date of transfer. The rules shall provide that  
1617 the successor employing unit, if not already an employer, shall  
1618 become an employer as of the date of the transfer and that the  
1619 experience of the transferred portion of the predecessor's  
1620 account shall be removed from the experience-rating record of  
1621 the predecessor, and for each calendar year following the date  
1622 of the transfer of the employment record on the books of the  
1623 division, the division shall compute the rate of contribution  
1624 payable by the successor on the basis of his or her experience,  
1625 if any, combined with the experience of the portion of the  
1626 record transferred. The rules may also provide what rates shall  
1627 be payable by the predecessor and successor employers for the  
1628 period between the date of the transfer of the employment record  
1629 of the transferred unit on the books of the division and the  
1630 first day of the next calendar year.

1631           4. This paragraph shall not apply to the employee leasing  
1632 company and client contractual agreement as defined in s.  
1633 443.036. The client shall, in the event of termination of the  
1634 contractual agreement or failure by the employee leasing company  
1635 to submit reports or pay contributions as required by the  
1636 division, be treated as a new employer without previous



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1637 employment record unless otherwise eligible for a rate  
 1638 computation.

1639 Section 33. Section 443.1316, Florida Statutes, is amended  
 1640 to read:

1641 443.1316 Contract with Department of Revenue for  
 1642 unemployment tax collection services.-

1643 (1) ~~By January 1, 2001,~~ The Agency for Workforce  
 1644 Innovation shall enter into a contract with the Department of  
 1645 Revenue which shall provide for the Department of Revenue to  
 1646 provide unemployment tax collection services. ~~The Department of~~  
 1647 ~~Revenue, in consultation with the Department of Labor and~~  
 1648 ~~Employment Security, shall determine the number of positions~~  
 1649 ~~needed to provide unemployment tax collection services within~~  
 1650 ~~the Department of Revenue. The number of unemployment tax~~  
 1651 ~~collection service positions the Department of Revenue~~  
 1652 ~~determines are needed shall not exceed the number of positions~~  
 1653 ~~that, prior to the contract, were authorized to the Department~~  
 1654 ~~of Labor and Employment Security for this purpose. Upon entering~~  
 1655 ~~into the contract with the Agency for Workforce Innovation to~~  
 1656 ~~provide unemployment tax collection services, the number of~~  
 1657 ~~required positions, as determined by the Department of Revenue,~~  
 1658 ~~shall be authorized within the Department of Revenue. Beginning~~  
 1659 ~~January 1, 2002, the Office of Program Policy Analysis and~~  
 1660 ~~Government Accountability shall conduct a feasibility study~~  
 1661 ~~regarding privatization of unemployment tax collection services.~~  
 1662 ~~A report on the conclusions of this study shall be submitted to~~  
 1663 ~~the Governor, the President of the Senate, and the Speaker of~~  
 1664 ~~the House of Representatives.~~

1665 (2)(a) The Department of Revenue is considered to be  
 1666 administering a revenue law of this state when the department





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1667 provides unemployment compensation tax collection services  
 1668 pursuant to a contract of the department with the Agency for  
 1669 Workforce Innovation.

1670 (b) Sections 213.018, 213.025, 213.051, 213.053, 213.055,  
 1671 213.071, 213.10, 213.2201, 213.23, 213.24(2), 213.27, 213.28,  
 1672 213.285, 213.37, 213.50, 213.67, 213.69, 213.73, 213.733,  
 1673 213.74, and 213.757 apply to the collection of unemployment  
 1674 contributions by the Department of Revenue unless prohibited by  
 1675 federal law.

1676 (c) Notwithstanding s. 216.346, the Department of Revenue  
 1677 may charge no more than 10 percent of the total cost of the  
 1678 interagency agreement for the overhead or indirect costs, or for  
 1679 any other costs not required for the payment of the direct  
 1680 costs, of providing unemployment tax collection services.

1681 Section 34. Subsections (1) and (2) of section 443.163,  
 1682 Florida Statutes, are amended to read:

1683 443.163 Electronic reporting and remitting of taxes.--

1684 (1) An employer may choose to file any report and remit  
 1685 any taxes required by this chapter by electronic means. The  
 1686 Agency for Workforce Innovation or its designee shall prescribe  
 1687 by rule the format and instructions necessary for such filing of  
 1688 reports and remitting of taxes to ensure a full collection of  
 1689 contributions due. The acceptable method of transfer, the  
 1690 method, form, and content of the electronic means, and the  
 1691 method, if any, by which the employer will be provided with an  
 1692 acknowledgment shall be prescribed by the agency or its  
 1693 designee. However, any employer who employed 10 or more  
 1694 employees in any quarter during the preceding state fiscal year,  
 1695 ~~or any person that prepared and reported for 5 or more employers~~  
 1696 ~~in the preceding state fiscal year,~~ must submit the Employers



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1697 Quarterly Reports (UCT-6) for the current calendar year and  
 1698 remit the taxes due by electronic means approved by the agency  
 1699 or its designee. A person who prepared and reported for 100 or  
 1700 more employers in any quarter during the preceding state fiscal  
 1701 year must file the Employers Quarterly Reports (UCT-6) for each  
 1702 calendar quarter in the current calendar year, beginning with  
 1703 reports due for the second calendar quarter of 2003, by  
 1704 electronic means approved by the Agency for Workforce Innovation  
 1705 or its designee.

1706 (2) Any employer or person who fails to file an Employers  
 1707 Quarterly Report (UCT-6) by electronic means required by law is  
 1708 liable for a penalty of ~~10 percent of the tax due, but not less~~  
 1709 ~~than~~ \$10 for such ~~each~~ report, which is in addition to any other  
 1710 penalty provided by this chapter which may be applicable, unless  
 1711 the employer or person has first obtained a waiver for such  
 1712 requirement from the agency or its designee. ~~An~~ ~~Any~~ employer ~~or~~  
 1713 ~~person~~ who fails to remit tax by electronic means as required by  
 1714 law is liable for a penalty of \$10 for each remittance  
 1715 submitted, which is in addition to any other penalty provided by  
 1716 this chapter which may be applicable.

1717 Section 35. The amendments made by this act to s.  
 1718 443.163(1) and (2), Florida Statutes, shall apply retroactively  
 1719 for Employers Quarterly Reports (UCT-6) due on or after April 1,  
 1720 2003.

1721 Section 36. Effective upon this act becoming a law and  
 1722 applying to tax years beginning January 1, 2003, subsection (5)  
 1723 of section 624.509, Florida Statutes, is amended to read:

1724 624.509 Premium tax; rate and computation.--

1725 (5) There shall be allowed a credit against the net tax  
 1726 imposed by this section equal to 15 percent of the amount paid



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1727 by the insurer in salaries to employees located or based within  
 1728 this state and who are covered by the provisions of chapter 443.  
 1729 For purposes of this subsection:

1730 (a) The term "salaries" does not include amounts paid as  
 1731 commissions.

1732 (b) The term "employees" does not include independent  
 1733 contractors or any person whose duties require that the person  
 1734 hold a valid license under the Florida Insurance Code, except  
 1735 persons defined in s. 626.015(1), (16), and (18).

1736 (c) The term "net tax" means the tax imposed by this  
 1737 section after applying the calculations and credits set forth in  
 1738 subsection (4).

1739 (d)1. An affiliated group of corporations that created a  
 1740 service company within its affiliated group on July 30, 2002,  
 1741 shall allocate the salary of each service company employee  
 1742 covered by contracts with affiliated group members to the  
 1743 companies for which the employees perform services. The salary  
 1744 allocation is based on the amount of time during the tax year  
 1745 that the individual employee spends performing services or  
 1746 otherwise working for each company over the total amount of time  
 1747 the employee spends performing services or otherwise working for  
 1748 all companies. The total amount of salary allocated to an  
 1749 insurance company within the affiliated group shall be included  
 1750 as the insurer's employee salaries for purposes of this section.

1751 a. The term "affiliated group of corporations" means two  
 1752 or more corporations which are entirely owned by a single  
 1753 corporation and which constitute an affiliated group of  
 1754 corporations as defined in section 1504(a) of the Internal  
 1755 Revenue Code.

1756 b. The term "service company" means a separate corporation



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1757 within the affiliated group of corporations whose employees  
 1758 provide services to affiliated group members and which are  
 1759 treated as service company employees for unemployment  
 1760 compensation and common law purposes. The holding company of an  
 1761 affiliated group may not qualify as a service company. An  
 1762 insurance company may not qualify as a service company.

1763 2. If an insurance company fails to substantiate, whether  
 1764 by means of adequate records or otherwise, its eligibility to  
 1765 claim the service company exception under this section or its  
 1766 salary allocation under this section, no credit shall be  
 1767 allowed.

1768 Section 37. Section 832.062, Florida Statutes, is amended  
 1769 to read:

1770 832.062 Prosecution for worthless checks, drafts, ~~or~~ debit  
 1771 card orders, or electronic funds transfers made ~~given~~ to pay any  
 1772 tax or associated amount administered by the Department of  
 1773 Revenue.--

1774 (1) It is unlawful for any person, firm, or corporation to  
 1775 draw, make, utter, issue, or deliver to the Department of  
 1776 Revenue any check, draft, or other written order on any bank or  
 1777 depository, ~~or~~ to use a debit card, or to make, send, instruct,  
 1778 order, or initiate any electronic funds transfer, or to cause or  
 1779 direct the making, sending, instructing, ordering, or initiating  
 1780 of any electronic funds transfer, for the payment of any taxes,  
 1781 penalties, interest, fees, or associated amounts administered by  
 1782 the Department of Revenue, knowing at the time of the drawing,  
 1783 making, uttering, issuing, or delivering of such check, draft,  
 1784 or other written order, ~~or~~ at the time of using such debit card,  
 1785 or at the time of making, sending, instructing, ordering, or  
 1786 initiating any electronic funds transfer, or at the time of



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1787 causing or directing the making, sending, instructing, ordering,  
 1788 initiating, or executing of any electronic funds transfer, that  
 1789 the maker, ~~or~~ drawer, sender, or receiver thereof has not  
 1790 sufficient funds on deposit in or credit with such bank or  
 1791 depository with which to pay the same on presentation. ~~;~~ ~~except~~  
 1792 ~~that~~ This section does not apply to any check or electronic  
 1793 funds transfer when the Department of Revenue knows or has been  
 1794 expressly notified prior to the drawing or uttering of the check  
 1795 or the sending or initiating of the electronic funds transfer,  
 1796 or has reason to believe, that the drawer, sender, or receiver  
 1797 did not have on deposit or to the drawer's, sender's, or  
 1798 receiver's credit with the drawee or receiving bank or  
 1799 depository sufficient funds to ensure payment as aforesaid and,  
 1800 ~~nor does~~ this section does not apply to any postdated check.

1801 (2) A violation of ~~the provisions of~~ this section  
 1802 constitutes a misdemeanor of the second degree, punishable as  
 1803 provided in s. 775.082 or s. 775.083, unless the check, draft,  
 1804 debit card order, ~~or~~ other written order drawn, made, uttered,  
 1805 issued, or delivered, or any electronic funds transfer made,  
 1806 sent, instructed, ordered, or initiated, or any electronic funds  
 1807 transfer caused or directed to be made, sent, instructed,  
 1808 ordered, or initiated, is in the amount of \$150 or more. In that  
 1809 event, the violation constitutes a felony of the third degree,  
 1810 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1811 (3) For purposes of prosecution, a violation under this  
 1812 section occurs in the county in which the check is issued or the  
 1813 electronic funds transfer is sent and in the county in which it  
 1814 is received. A check will be deemed issued at the residence  
 1815 address of an individual taxpayer and at the business address of  
 1816 a business taxpayer.



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1817           Section 38. Except as otherwise provided herein, this act  
1818 shall take effect July 1, 2003.