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1 A bill to be entitled

2 An act relating to tax administration; directing the  
3 Department of Revenue to develop and implement an amnesty  
4 program for taxpayers subject to the state and local taxes  
5 imposed by chapters 125, 198, 199, 201, 202, 203, 206,  
6 211, 212, 220, 221, 336, 370, 376, 403, 538, 624, 627, and  
7 681, F.S.; providing time periods; providing program  
8 guidelines; providing for eligible participants; providing  
9 for waiver of penalties and interest under specified  
10 circumstances; providing for emergency rules; amending ss.  
11 213.235 and 220.807, F.S.; providing that the interest  
12 rate on certain tax deficiencies shall be an adjusted  
13 prime rate plus 4 percentage points; providing legislative  
14 intent; providing an appropriation; providing an effective  
15 date.

16  
17 WHEREAS, state government should undertake all reasonable  
18 efforts to ensure uniform compliance with the existing state  
19 revenue laws across the state, and

20 WHEREAS, the Department of Revenue has implemented an  
21 integrated tax-administration information system (SUNTAX) that  
22 will provide the department with better information on taxpayer  
23 compliance, and

24 WHEREAS, the SUNTAX system provides the department with  
25 additional capabilities to discover unregistered and  
26 noncompliant taxpayers, and

27 WHEREAS, the department is currently using the SUNTAX  
28 system to identify areas of noncompliance and to help taxpayers  
29 come into full compliance with the law, and

30 WHEREAS, the department expects SUNTAX to be of substantial



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31 further benefit in helping to ensure that all taxpayers bear  
32 their fair share of the state's tax burden, and

33 WHEREAS, taxpayers that are not in full compliance with tax  
34 laws may be unaware of some aspects of their obligations under  
35 Florida law, and

36 WHEREAS, it is the intent of this state to assist taxpayers  
37 in fully understanding their tax obligations and in complying  
38 with those obligations in ways that place the lowest possible  
39 burden on taxpayers, and

40 WHEREAS, the department is aware of circumstances in which  
41 taxpayers, often without their knowledge, are not in compliance  
42 with the tax laws of the state, and

43 WHEREAS, the Legislature finds and declares that taxpayers  
44 should be given an opportunity to come into voluntary compliance  
45 before the department undertakes further steps to identify  
46 taxpayers that are in noncompliance, and

47 WHEREAS, the Legislature finds and declares that a public  
48 purpose is served by the waiver of tax penalties and interest in  
49 return for the immediate reporting and payment of previously  
50 underreported, unreported, or unpaid tax liabilities, and

51 WHEREAS, the Legislature further finds and declares that  
52 among the benefits gained through an amnesty program are  
53 increased collection of currently owed taxes and permanently  
54 bringing into the tax system taxpayers that have been unaware of  
55 or have not been fulfilling their tax obligations, and

56 WHEREAS, to encourage the full payment of taxes owed to the  
57 State of Florida, NOW, THEREFORE,

58

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

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61 Section 1. (1) No later than July 1, 2003, the Department  
62 of Revenue shall develop and implement an amnesty program for  
63 taxpayers subject to the state and local taxes imposed by  
64 chapters 125, 198, 199, 201, 202, 203, 206, 211, 212, 220, 221,  
65 336, 370, 376, 403, 538, 624, 627, and 681, Florida Statutes.

66 (2) The amnesty program shall be a one-time opportunity  
67 for eligible taxpayers to satisfy their tax liabilities under  
68 the revenue laws of this state and thereby avoid criminal  
69 prosecution, penalties, and interest as provided in subsections  
70 (4), (5), and (6).

71 (3) The amnesty program shall be in effect for a 4-month  
72 period beginning on July 1, 2003, and ending on October 31,  
73 2003. The amnesty program shall apply only to tax liabilities  
74 due prior to July 1, 2003. In order to participate in the  
75 amnesty program, eligible taxpayers must file the forms and  
76 other documentation specified by the Department of Revenue,  
77 including, but not limited to, returns and amended returns, must  
78 make full payment of tax due, and must make payment of the  
79 interest due as provided in subsections (4) and (5).

80 (4) A taxpayer may participate in the amnesty program  
81 whether or not the taxpayer is under audit, inquiry,  
82 examination, or civil investigation initiated by the Department  
83 of Revenue, regardless of whether the amount due is included in  
84 a proposed assessment or an assessment, bill, notice, or demand  
85 for payment issued by the Department of Revenue, and without  
86 regard to whether the amount due is subject to a pending  
87 administrative or judicial proceeding. If any of the  
88 circumstances set forth in this subsection apply, the taxpayer  
89 shall be required to pay the full amount of the tax due and 75  
90 percent of the amount of interest due. A taxpayer that is



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91 participating in the certified audits program authorized by s.  
92 213.285, Florida Statutes, shall be eligible for the interest  
93 and penalty compromises authorized by either the amnesty program  
94 or the certified audits program, but not both.

95 (5) If the circumstances set forth in subsection (4) do  
96 not apply and the initial contact with the Department of Revenue  
97 is made by the taxpayer pursuant to the amnesty program, the  
98 taxpayer shall be required to pay the full amount of the tax due  
99 and 50 percent of the amount of interest due.

100 (6) No penalties shall be imposed on any tax paid pursuant  
101 to the amnesty program, and the Department of Revenue shall not  
102 initiate a criminal investigation against or refer for  
103 prosecution any taxpayer participating in the amnesty program  
104 with respect to the failure to timely pay the tax disclosed in  
105 the amnesty program.

106 (7) Participation in the amnesty program shall be  
107 conditioned upon the taxpayer's express waiver of rights to  
108 contest taxes being reported pursuant to the amnesty program. If  
109 the taxes reported pursuant to the amnesty program are the  
110 subject of a pending informal protest under s. 213.21, Florida  
111 Statutes, or of administrative or judicial proceedings that have  
112 not become final as of the date payment of the taxes is made  
113 pursuant to the amnesty program, participation in the amnesty  
114 program is conditioned upon the taxpayer's withdrawal of such  
115 informal protest or dismissal of such administrative or judicial  
116 proceeding. Participation in the amnesty program shall also be  
117 conditioned upon the taxpayer's express agreement to waive any  
118 right to claim a refund or to protest or initiate an  
119 administrative or judicial proceeding to review any denial of a  
120 refund claim for any refund of tax or interest paid under the



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121 amnesty program except as provided in this subsection. No refund  
122 may be made of any penalty or interest paid prior to July 1,  
123 2003. Any credit or refund of tax or interest paid as a result  
124 of participation in the amnesty program shall be strictly  
125 limited to amounts determined by the Department of Revenue to  
126 have been paid in error.

127 (8) A taxpayer that has been placed on notice that the  
128 taxpayer is under criminal investigation, or is under  
129 indictment, information, or prosecution regarding a revenue law  
130 of this state shall not be eligible to participate in the  
131 amnesty program. A taxpayer that has been convicted of a crime  
132 regarding a revenue law of this state shall not be eligible to  
133 participate in the amnesty program.

134 (9) With or without an audit, the Department of Revenue is  
135 authorized to issue a notice or demand for payment with respect  
136 to any tax or interest that it determines to be due with any  
137 return filed under the tax amnesty program, and such notice and  
138 demand shall be prima facie correct in any administrative,  
139 judicial, or quasi-judicial proceeding.

140 (10) The Department of Revenue may, on the basis of fraud,  
141 misrepresentation, or mutual mistake of fact, rescind a grant of  
142 amnesty. Any taxpayer that files under the amnesty program  
143 false or fraudulent returns, forms, or documentation or attempts  
144 in any manner to defeat or evade a tax is subject to applicable  
145 penalties and criminal prosecution.

146 (11) Any local option tax administered by a local  
147 government that imposed the tax pursuant to a statute permitting  
148 self-administration is excluded from the amnesty program unless  
149 the local government notifies the Department of Revenue by June  
150 1, 2003, that it chooses to participate in the amnesty program.



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151 Any taxpayer that has entered into a settlement of liability  
152 for local option taxes before July 1, 2003, but has not made  
153 full and complete payment of the settlement amount shall not be  
154 eligible to participate in the amnesty program.

155 (12) The executive director of the Department of Revenue  
156 is authorized to adopt emergency rules under ss. 120.536(1) and  
157 120.54(4), Florida Statutes, to implement the amnesty program.  
158 Such rules may provide forms, procedures, terms, conditions, and  
159 methods of payment appropriate for fair and effective  
160 administration of the amnesty program and to ensure the  
161 taxpayer's ongoing commitment to proper remittance of taxes to  
162 the state. Notwithstanding any other law, the emergency rules  
163 shall remain in effect until the later of the date that is 6  
164 months after the date of adoption of the rule or the date of  
165 final resolution of all amnesty applications filed pursuant to  
166 this section.

167 Section 2. Effective July 1, 2003, subsections (2) and (3)  
168 of section 213.235, Florida Statutes, are amended to read:

169 213.235 Determination of interest on deficiencies.--

170 (2) If the adjusted prime rate charged by banks, rounded  
171 to the nearest full percent, plus 4 percentage points, during  
172 either:

173 (a) The 6-month period ending on September 30 of any  
174 calendar year, or

175 (b) The 6-month period ending on March 31 of any calendar  
176 year

177  
178 differs from the interest rate in effect on either such date,  
179 the executive director of the department shall, within 20 days,



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180 establish an adjusted rate of interest equal to such adjusted  
 181 prime rate plus 4 percentage points.

182 (3) An adjusted rate of interest established under this  
 183 section becomes effective:

184 (a) On January 1 of the succeeding year, if based upon the  
 185 adjusted prime rate plus 4 percentage points for the 6-month  
 186 period ending on September 30; or

187 (b) On July 1 of the same calendar year, if based upon the  
 188 adjusted prime rate plus 4 percentage points for the 6-month  
 189 period ending on March 31.

190 Section 3. Amendments made by this act to s. 213.235(2)  
 191 and (3), Florida Statutes, apply to interest due on tax payment  
 192 deficiencies that arise on or after July 1, 2003, and also apply  
 193 to interest due on tax payment deficiencies that arose on or  
 194 after January 1, 2000, but remain unpaid as of July 1, 2003.

195 Section 4. Effective July 1, 2003, subsections (2) and (3)  
 196 of section 220.807, Florida Statutes, are amended to read:

197 220.807 Determination of rate of interest.--

198 (2) If the adjusted prime rate charged by banks, rounded  
 199 to the nearest full percent, plus 4 percentage points, during  
 200 either:

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

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

205  
 206 differs from the interest rate in effect on either such date,  
 207 the executive director of the Department of Revenue shall,  
 208 within 20 days, establish an adjusted rate of interest equal to  
 209 such adjusted prime rate plus 4 percentage points.



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210 (3) An adjusted rate of interest established under this  
 211 section shall become effective:

212 (a) On January 1 of the succeeding year, if based upon the  
 213 adjusted prime rate plus 4 percentage points for the 6-month  
 214 period ending on September 30; or

215 (b) On July 1 of the same calendar year, if based upon the  
 216 adjusted prime rate plus 4 percentage points for the 6-month  
 217 period ending on March 31.

218 Section 5. Amendments made by this act to s. 220.807(2)  
 219 and (3), Florida Statutes, apply to interest due on tax payment  
 220 deficiencies that arise on or after July 1, 2003, and also apply  
 221 to interest due on tax payment deficiencies that arose before  
 222 January 1, 2003, but remain unpaid as of July 1, 2003.

223 Section 6. The sum of \$385,000 is appropriated from the  
 224 General Revenue Fund to the Department of Revenue for the  
 225 purpose of administering the amnesty program created by this  
 226 act.

227 Section 7. Except as otherwise provided herein, this act  
 228 shall take effect upon becoming a law.