



CHAMBER ACTION

The Committee on Finance & Tax recommends the following:

**Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to tax administration; directing the Department of Revenue to develop and implement an amnesty program for taxpayers subject to the state and local taxes imposed by chapters 125, 198, 199, 201, 202, 203, 206, 211, 212, 220, 221, 336, 370, 376, 403, 538, 624, 627, and 681, F.S.; providing time periods; providing program guidelines; providing for eligible participants; providing for waiver of penalties and interest under specified circumstances; providing for emergency rules; amending ss. 213.235 and 220.807, F.S.; providing that the interest rate on certain tax deficiencies shall be an adjusted prime rate plus 4 percentage points; providing maximum limitations on certain annual interest rates; providing application of certain adjustments; requiring the Department of Revenue to use certain adjusted prime rates in certain calculations; providing legislative intent; amending s. 202.35, F.S.; limiting certain annual rates of interest; providing an appropriation; providing for



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29 reversion and reappropriation of certain amounts under  
30 certain circumstances; providing for construction of the  
31 act in pari materia with laws enacted during the 2003  
32 Regular Session of the Legislature; providing effective  
33 dates.

34  
35 WHEREAS, state government should undertake all reasonable  
36 efforts to ensure uniform compliance with the existing state  
37 revenue laws across the state, and

38 WHEREAS, the Department of Revenue has implemented an  
39 integrated tax-administration information system (SUNTAX) that  
40 will provide the department with better information on taxpayer  
41 compliance, and

42 WHEREAS, the SUNTAX system provides the department with  
43 additional capabilities to discover unregistered and  
44 noncompliant taxpayers, and

45 WHEREAS, the department is currently using the SUNTAX  
46 system to identify areas of noncompliance and to help taxpayers  
47 come into full compliance with the law, and

48 WHEREAS, the department expects SUNTAX to be of substantial  
49 further benefit in helping to ensure that all taxpayers bear  
50 their fair share of the state's tax burden, and

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

54 WHEREAS, it is the intent of this state to assist taxpayers  
55 in fully understanding their tax obligations and in complying



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56 | with those obligations in ways that place the lowest possible  
57 | burden on taxpayers, and

58 |       WHEREAS, the department is aware of circumstances in which  
59 | taxpayers, often without their knowledge, are not in compliance  
60 | with the tax laws of the state, and

61 |       WHEREAS, the Legislature finds and declares that taxpayers  
62 | should be given an opportunity to come into voluntary compliance  
63 | before the department undertakes further steps to identify  
64 | taxpayers that are in noncompliance, and

65 |       WHEREAS, the Legislature finds and declares that a public  
66 | purpose is served by the waiver of tax penalties and interest in  
67 | return for the immediate reporting and payment of previously  
68 | underreported, unreported, or unpaid tax liabilities, and

69 |       WHEREAS, the Legislature further finds and declares that  
70 | among the benefits gained through an amnesty program are  
71 | increased collection of currently owed taxes and permanently  
72 | bringing into the tax system taxpayers that have been unaware of  
73 | or have not been fulfilling their tax obligations, and

74 |       WHEREAS, to encourage the full payment of taxes owed to the  
75 | State of Florida, NOW, THEREFORE,

76 |

77 | Be It Enacted by the Legislature of the State of Florida:

78 |

79 |       Section 1. (1) No later than July 1, 2003, the Department  
80 | of Revenue shall develop and implement an amnesty program for  
81 | taxpayers subject to the state and local taxes imposed by  
82 | chapters 125, 198, 199, 201, 202, 203, 206, 211, 212, 220, 221,  
83 | 336, 370, 376, 403, 538, 624, 627, and 681, Florida Statutes.



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84        (2) The amnesty program shall be a one-time opportunity  
85 for eligible taxpayers to satisfy their tax liabilities under  
86 the revenue laws of this state and thereby avoid criminal  
87 prosecution, penalties, and interest as provided in subsections  
88 (4), (5), and (6). Any taxpayer that has entered into a  
89 settlement of liability for state or local option taxes before  
90 July 1, 2003, whether or not full and complete payment of the  
91 settlement amount has been made, shall not be eligible to  
92 participate in the amnesty program.

93        (3) The amnesty program shall be in effect for a 4-month  
94 period beginning on July 1, 2003, and ending on October 31,  
95 2003. The amnesty program shall apply only to tax liabilities  
96 due prior to July 1, 2003. In order to participate in the  
97 amnesty program, eligible taxpayers must file the forms and  
98 other documentation specified by the department, including, but  
99 not limited to, returns and amended returns, must make full  
100 payment of tax due, and must make payment of the interest due as  
101 provided in subsections (4) and (5).

102        (4) A taxpayer may participate in the amnesty program  
103 whether or not the taxpayer is under audit, inquiry,  
104 examination, or civil investigation initiated by the department,  
105 regardless of whether the amount due is included in a proposed  
106 assessment or an assessment, bill, notice, or demand for payment  
107 issued by the department, and without regard to whether the  
108 amount due is subject to a pending administrative or judicial  
109 proceeding. If any of the circumstances set forth in this  
110 subsection apply, the taxpayer shall be required to pay the full  
111 amount of the tax due and 75 percent of the amount of interest



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112 due. When the department has issued a notice of intent to  
113 conduct an audit to a taxpayer but has not commenced the audit,  
114 the taxpayer may apply to the department during the amnesty  
115 program for approval to have the audit converted to the  
116 certified audits program authorized by s. 213.285, Florida  
117 Statutes. When a taxpayer has been approved during the amnesty  
118 program to have an audit converted to the certified audits  
119 program, payment of any liability determined as a result of this  
120 participation in the certified audits program must be made  
121 during the period the amnesty program is in effect. A taxpayer  
122 that is participating in the certified audits program shall be  
123 eligible for the interest and penalty compromises authorized by  
124 either the amnesty program or the certified audits program, but  
125 not both.

126 (5) If the circumstances set forth in subsection (4) do  
127 not apply and the initial contact with the department is made by  
128 the taxpayer pursuant to the amnesty program, the taxpayer shall  
129 be required to pay the full amount of the tax due and 50 percent  
130 of the amount of interest due.

131 (6) No penalties shall be imposed on any tax paid pursuant  
132 to the amnesty program, and the department shall not initiate a  
133 criminal investigation against or refer for prosecution any  
134 taxpayer participating in the amnesty program with respect to  
135 the failure to timely pay the tax disclosed in the amnesty  
136 program.

137 (7) Participation in the amnesty program shall be  
138 conditioned upon the taxpayer's express waiver of rights to  
139 contest taxes being reported pursuant to the amnesty program. If



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140 the taxes reported pursuant to the amnesty program are the  
141 subject of a pending informal protest under s. 213.21, Florida  
142 Statutes, or of administrative or judicial proceedings that have  
143 not become final as of the date payment of the taxes is made  
144 pursuant to the amnesty program, participation in the amnesty  
145 program is conditioned upon the taxpayer's withdrawal of such  
146 informal protest or dismissal of such administrative or judicial  
147 proceeding. Participation in the amnesty program shall also be  
148 conditioned upon the taxpayer's express agreement to waive any  
149 right to claim a refund or to protest or initiate an  
150 administrative or judicial proceeding to review any denial of a  
151 refund claim for any refund of tax or interest paid under the  
152 amnesty program except as provided in this subsection. No refund  
153 may be made of any penalty or interest paid prior to July 1,  
154 2003. Any credit or refund of tax or interest paid as a result  
155 of participation in the amnesty program shall be strictly  
156 limited to amounts determined by the department to have been  
157 paid in error.

158 (8) A taxpayer under criminal investigation, indictment,  
159 information, or prosecution regarding a revenue law of this  
160 state shall not be eligible to participate in the amnesty  
161 program. A taxpayer that has been convicted of a crime regarding  
162 a revenue law of this state shall not be eligible to participate  
163 in the amnesty program.

164 (9) With or without an audit, the department is authorized  
165 to issue a notice or demand for payment with respect to any tax  
166 or interest that it determines to be due with any return filed  
167 under the tax amnesty program, and such notice and demand shall



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168 be prima facie correct in any administrative, judicial, or  
169 quasi-judicial proceeding.

170 (10) The department may rescind, on the basis of fraud,  
171 misrepresentation, or mutual mistake of fact, a grant of  
172 amnesty, including any amnesty granted as a result of  
173 participation in the certified audit program during the period  
174 the amnesty program is in effect. Any taxpayer that files under  
175 the amnesty program false or fraudulent returns, forms, or  
176 documentation or that attempts in any manner to defeat or evade  
177 a tax is subject to applicable penalties and criminal  
178 prosecution.

179 (11) Any local option tax administered by a local  
180 government that imposed the tax pursuant to a statute permitting  
181 self-administration is excluded from the amnesty program unless  
182 the local government notifies the department by June 10, 2003,  
183 that it chooses to participate in the amnesty program.

184 (12) The executive director of the department is  
185 authorized to adopt emergency rules under ss. 120.536(1) and  
186 120.54(4), Florida Statutes, to implement the amnesty program.  
187 Such rules may provide forms, procedures, terms, conditions, and  
188 methods of payment appropriate for fair and effective  
189 administration of the amnesty program and to ensure the  
190 taxpayer's ongoing commitment to proper remittance of taxes to  
191 the state. Notwithstanding any other law, the emergency rules  
192 shall remain in effect until the later of the date that is 6  
193 months after the date of adoption of the rule or the date of  
194 final resolution of all amnesty applications filed pursuant to  
195 this section.



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196 Section 2. Effective November 1, 2003, subsections (2) and  
197 (3) of section 213.235, Florida Statutes, are amended to read:

198 213.235 Determination of interest on deficiencies.--

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

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

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

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

211 (3) An adjusted rate of interest established under this  
212 section becomes effective:

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

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

219 Section 3. Amendments made by this act to s. 213.235(2)  
220 and (3), Florida Statutes, apply to interest due on tax payment  
221 deficiencies that arise on or after November 1, 2003, and also  
222 apply to interest due on tax payment deficiencies that arose on  
223 or after January 1, 2000, but remain unpaid as of November 1,





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224 2003. When calculating the rate that takes effect on November 1,  
225 2003, the department shall use in making that calculation the  
226 adjusted prime rate charged by banks, rounded to the nearest  
227 full percent, during the 6-month period ending on March 31,  
228 2003.

229 Section 4. Effective November 1, 2003, subsections (1),  
230 (2), and (3) of section 220.807, Florida Statutes, are amended  
231 to read:

232 220.807 Determination of rate of interest.--

233 (1) The annual rate of interest applicable to this chapter  
234 shall be the adjusted rate established by the executive director  
235 of the Department of Revenue under subsection (2), except the  
236 annual rate of interest shall never be greater than 12 percent.

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

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

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

244  
245 differs from the interest rate in effect on either such date,  
246 the executive director of the Department of Revenue shall,  
247 within 20 days, establish an adjusted rate of interest equal to  
248 such adjusted prime rate plus 4 percentage points.

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



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

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

257 Section 5. Amendments made by this act to s. 220.807(1),  
258 (2), and (3), Florida Statutes, apply to interest due on tax  
259 payment deficiencies that arise on or after November 1, 2003,  
260 and also apply to interest due on tax payment deficiencies that  
261 arose on or after January 1, 2000, but remain unpaid as of  
262 November 1, 2003. When calculating the rate that takes effect on  
263 November 1, 2003, the department shall use in making that  
264 calculation the adjusted prime rate charged by banks, rounded to  
265 the nearest full percent, during the 6-month period ending on  
266 March 31, 2003.

267 Section 6. Effective November 1, 2003, subsection (1) of  
268 section 202.35, Florida Statutes, is amended to read:

269 202.35 Powers of department in dealing with delinquents;  
270 tax to be separately stated.--

271 (1) If any dealer or other person fails to remit the tax,  
272 or any portion thereof, on or before the day when the tax is  
273 required by law to be paid, there will be added to the amount  
274 due interest at the rate calculated pursuant to s. 213.235 of  
275 the amount due from the date due until paid, except the annual  
276 rate of interest shall never be greater than 12 percent.

277 Interest on the delinquent tax is to be calculated beginning on



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278 | the 21st day of the month following the month for which the tax  
279 | is due, except as otherwise provided in this chapter.

280 |       Section 7. The sum of \$610,000 is appropriated from the  
281 | General Revenue Fund to the Department of Revenue for the  
282 | purpose of administering the amnesty program created by this  
283 | act. Funds remaining unexpended or unencumbered from this  
284 | appropriation as of June 30, 2003, shall revert and be  
285 | reappropriated for the same purposes in fiscal year 2003-2004.

286 |       Section 8. If any law amended by this act was also amended  
287 | by a law enacted at the 2003 Regular Session of the Legislature,  
288 | such laws shall be construed as if they had been enacted at the  
289 | same session of the Legislature, and full effect shall be given  
290 | to each if possible.

291 |       Section 9. Except as otherwise provided herein, this act  
292 | shall take effect upon becoming a law.