

1                                   A bill to be entitled  
 2           An act relating to the dealer collection allowance for the  
 3           tax on sales, use, and other transactions; amending s.  
 4           212.12, F.S.; authorizing a dealer to elect to forego the  
 5           collection allowance and direct that the collection  
 6           allowance be deposited into the Educational Enhancement  
 7           Trust Fund; providing exceptions; providing for rules by  
 8           the Department of Revenue; providing an appropriation;  
 9           providing for costs recovery; providing an effective date.

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

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13           Section 1. Subsection (1) of section 212.12, Florida  
 14           Statutes, is amended to read:

15           212.12 Dealer's credit for collecting tax; penalties for  
 16           noncompliance; powers of Department of Revenue in dealing with  
 17           delinquents; brackets applicable to taxable transactions;  
 18           records required.--

19           (1) Notwithstanding any other provision of law and for the  
 20           purpose of compensating persons granting licenses for and the  
 21           lessors of real and personal property taxed hereunder, for the  
 22           purpose of compensating dealers in tangible personal property,  
 23           for the purpose of compensating dealers providing communication  
 24           services and taxable services, for the purpose of compensating  
 25           owners of places where admissions are collected, and for the  
 26           purpose of compensating remitters of any taxes or fees reported  
 27           on the same documents utilized for the sales and use tax, as  
 28           compensation for the keeping of prescribed records, filing

29 | timely tax returns, and the proper accounting and remitting of  
30 | taxes by them, such seller, person, lessor, dealer, owner, and  
31 | remitter (except dealers who make mail order sales) shall be  
32 | allowed 2.5 percent of the amount of the tax due and accounted  
33 | for and remitted to the department, in the form of a deduction  
34 | in submitting his or her report and paying the amount due by him  
35 | or her; the department shall allow such deduction of 2.5 percent  
36 | of the amount of the tax to the person paying the same for  
37 | remitting the tax and making of tax returns in the manner herein  
38 | provided, for paying the amount due to be paid by him or her,  
39 | and as further compensation to dealers in tangible personal  
40 | property for the keeping of prescribed records and for  
41 | collection of taxes and remitting the same. However, if the  
42 | amount of the tax due and remitted to the department for the  
43 | reporting period exceeds \$1,200, no allowance shall be allowed  
44 | for all amounts in excess of \$1,200. The executive director of  
45 | the department is authorized to negotiate a collection  
46 | allowance, pursuant to rules promulgated by the department, with  
47 | a dealer who makes mail order sales. The rules of the department  
48 | shall provide guidelines for establishing the collection  
49 | allowance based upon the dealer's estimated costs of collecting  
50 | the tax, the volume and value of the dealer's mail order sales  
51 | to purchasers in this state, and the administrative and legal  
52 | costs and likelihood of achieving collection of the tax absent  
53 | the cooperation of the dealer. However, in no event shall the  
54 | collection allowance negotiated by the executive director exceed  
55 | 10 percent of the tax remitted for a reporting period.

56 (a) The Department of Revenue may deny the collection  
57 allowance if a taxpayer files an incomplete return or if the  
58 required tax return or tax is delinquent at the time of payment.

59 1. An "incomplete return" is, for purposes of this  
60 chapter, a return which is lacking such uniformity,  
61 completeness, and arrangement that the physical handling,  
62 verification, review of the return, or determination of other  
63 taxes and fees reported on the return may not be readily  
64 accomplished.

65 2. The department shall adopt rules requiring such  
66 information as it may deem necessary to ensure that the tax  
67 levied hereunder is properly collected, reviewed, compiled,  
68 reported, and enforced, including, but not limited to: the  
69 amount of gross sales; the amount of taxable sales; the amount  
70 of tax collected or due; the amount of lawful refunds,  
71 deductions, or credits claimed; the amount claimed as the  
72 dealer's collection allowance; the amount of penalty and  
73 interest; the amount due with the return; and such other  
74 information as the Department of Revenue may specify. The  
75 department shall require that transient rentals and agricultural  
76 equipment transactions be separately shown. Sales made through  
77 vending machines as defined in s. 212.0515 must be separately  
78 shown on the return. Sales made through coin-operated amusement  
79 machines as defined by s. 212.02 and the number of machines  
80 operated must be separately shown on the return or on a form  
81 prescribed by the department. If a separate form is required,  
82 the same penalties for late filing, incomplete filing, or

83 failure to file as provided for the sales tax return shall apply  
 84 to said form.

85 (b) The collection allowance and other credits or  
 86 deductions provided in this chapter shall be applied  
 87 proportionally to any taxes or fees reported on the same  
 88 documents used for the sales and use tax.

89 (c) A dealer entitled to the collection allowance provided  
 90 in this section may elect to forego the collection allowance and  
 91 direct that the said amount be deposited into the Educational  
 92 Enhancement Trust Fund. Such election must be made with the  
 93 timely filing of a return and cannot be rescinded once made.  
 94 When a dealer who makes such election files a delinquent return,  
 95 underpays the tax, or files an incomplete return, the amount  
 96 deposited into the Educational Enhancement Trust Fund shall be  
 97 the collection allowance remaining after resolution of liability  
 98 for all of the tax, interest, and penalty due on that return or  
 99 underpayment of tax. The provisions of this paragraph shall not  
 100 apply to s. 212.0305 and to any other tax, fee, or levy that is  
 101 administered, collected, and enforced pursuant to the procedures  
 102 under chapter 212.

103 Section 2. Notwithstanding the provisions of chapter 120,  
 104 Florida Statutes, the Department of Revenue may adopt rules to  
 105 carry out the amendments made by this act to s. 212.12, Florida  
 106 Statutes.

107 Section 3. The sum of \$236,465 is appropriated from the  
 108 General Revenue Fund to the Department of Revenue for the  
 109 purpose of administering the amendments to s. 212.12, Florida  
 110 Statutes, made by this act.

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111           Section 4. The Department of Revenue shall retain all of  
112 the dealer collection allowance revenues directed to be  
113 deposited into the Educational Enhancement Trust Fund until the  
114 \$236,465 general revenue appropriation is recovered. The  
115 \$236,465 retained by the department shall be deposited into the  
116 General Revenue Fund.

117           Section 5. This act shall take effect January 1, 2006.