

Bill No. HB 1813

Barcode 635506

CHAMBER ACTION

Senate

House

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Senator Atwater moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (a) of subsection (3) of section 95.091, Florida Statutes, is amended to read:

95.091 Limitation on actions to collect taxes.--

(3)(a) With the exception of taxes levied under chapter 198 and tax adjustments made pursuant to ss. ~~s.~~ 220.23 and 624.50921, the Department of Revenue may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011 which it has authority to administer and the Department of Business and Professional Regulation may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011 which it has authority to administer:

1.a. For taxes due before July 1, 1999, within 5 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later;

Bill No. HB 1813

Barcode 635506

1 and for taxes due on or after July 1, 1999, within 3 years
2 after the date the tax is due, any return with respect to the
3 tax is due, or such return is filed, whichever occurs later;

4 b. Effective July 1, 2002, notwithstanding
5 sub-subparagraph a., within 3 years after the date the tax is
6 due, any return with respect to the tax is due, or such return
7 is filed, whichever occurs later;

8 2. For taxes due before July 1, 1999, within 6 years
9 after the date the taxpayer either makes a substantial
10 underpayment of tax, or files a substantially incorrect
11 return;

12 3. At any time while the right to a refund or credit
13 of the tax is available to the taxpayer;

14 4. For taxes due before July 1, 1999, at any time
15 after the taxpayer has filed a grossly false return;

16 5. At any time after the taxpayer has failed to make
17 any required payment of the tax, has failed to file a required
18 return, or has filed a fraudulent return, except that for
19 taxes due on or after July 1, 1999, the limitation prescribed
20 in subparagraph 1. applies if the taxpayer has disclosed in
21 writing the tax liability to the department before the
22 department has contacted the taxpayer; or

23 6. In any case in which there has been a refund of tax
24 erroneously made for any reason:

25 a. For refunds made before July 1, 1999, within 5
26 years after making such refund; and

27 b. For refunds made on or after July 1, 1999, within 3
28 years after making such refund,

29
30 or at any time after making such refund if it appears that any
31 part of the refund was induced by fraud or the

Bill No. HB 1813

Barcode 635506

1 misrepresentation of a material fact.

2 Section 2. Subsection (2) of section 198.32, Florida
3 Statutes, is amended to read:

4 198.32 Prima facie liability for tax.--

5 (2) Whenever an estate is not subject to tax under
6 this chapter and is not required to file a return, the
7 personal representative may execute an affidavit attesting
8 that the estate is not taxable. The form of the affidavit
9 shall be prescribed by the department, and shall include, but
10 not be limited to, statements regarding the decedent's
11 domicile and whether a federal estate tax return will be
12 filed, and acknowledgment of the personal representative's
13 personal liability under s. 198.23. This affidavit shall be
14 subject to record and admissible in evidence to show
15 nonliability for tax. This subsection applies to all estates,
16 regardless of the date of death of the decedent.

17 Section 3. Subsection (5) is added to section 199.135,
18 Florida Statutes, to read:

19 199.135 Due date and payment of nonrecurring tax.--The
20 nonrecurring tax imposed on notes, bonds, and other
21 obligations for payment of money secured by a mortgage, deed
22 of trust, or other lien evidenced by a written instrument
23 presented for recordation shall be due and payable when the
24 instrument is presented for recordation. If there is no
25 written instrument or if it is not so presented within 30 days
26 following creation of the obligation, then the tax shall be
27 due and payable within 30 days following creation of the
28 obligation.

29 (5)(a) In recognition of the special escrow
30 requirements that apply to sales of timeshare interests in
31 timeshare plans pursuant to s. 721.08, tax on notes or other

Bill No. HB 1813

Barcode 635506

1 obligations secured by a mortgage, deed of trust, or other
2 lien upon real property situated in this state executed in
3 conjunction with the sale by a developer of a timeshare
4 interest in a timeshare plan is due and payable on the earlier
5 of the date on which:

6 1. The mortgage, deed of trust, or other lien is
7 recorded; or

8 2. All of the conditions precedent to the release of
9 the purchaser's escrowed funds or other property pursuant to
10 s. 721.08(2)(c) have been met, regardless of whether the
11 developer has posted an alternative assurance. Tax due under
12 this subparagraph is due and payable on or before the 20th day
13 of the month following the month in which these conditions
14 were met.

15 (b)1. If tax has been paid to the department under
16 subparagraph (a)2., and the note, other written obligation,
17 mortgage, deed of trust, or other lien with respect to which
18 the tax was paid is subsequently recorded, a notation
19 reflecting the prior payment of the tax must be made upon the
20 mortgage or other lien.

21 2. Notwithstanding paragraph (a), if funds are
22 designated on a closing statement as tax collected from the
23 purchaser, but the mortgage, deed of trust, or other lien with
24 respect to which the tax was collected has not been recorded
25 or filed in this state, the tax must be paid to the department
26 on or before the 20th day of the month following the month in
27 which the funds are available for release from escrow, unless
28 the funds have been refunded to the purchaser.

29 (c) The department may adopt rules to administer the
30 method for reporting tax due under this subsection.

31 Section 4. Subsection (10) is added to section 201.02,

Bill No. HB 1813

Barcode 635506

1 Florida Statutes, to read:

2 201.02 Tax on deeds and other instruments relating to
3 real property or interests in real property.--

4 (10)(a) In recognition of the special escrow
5 requirements that apply to sales of timeshare interests in
6 timeshare plans pursuant to s. 721.08, tax on deeds or other
7 instruments conveying any interest in Florida real property
8 which are executed in conjunction with the sale by a developer
9 of a timeshare interest in a timeshare plan is due and payable
10 on the earlier of the date on which:

11 1. The deed or other instrument conveying the interest
12 in Florida real property is recorded; or

13 2. All of the conditions precedent to the release of
14 the purchaser's escrowed funds or other property pursuant to
15 s. 721.08(2)(c) have been met, regardless of whether the
16 developer has posted an alternative assurance. Tax due
17 pursuant to this subparagraph is due and payable on or before
18 the 20th day of the month following the month in which these
19 conditions were met.

20 (b)1. If tax has been paid to the department pursuant
21 to subparagraph (a)2., and the deed or other instrument
22 conveying the interest in Florida real property with respect
23 to which the tax was paid is subsequently recorded, a notation
24 reflecting the prior payment of the tax must be made upon the
25 deed or other instrument conveying the interest in Florida
26 real property.

27 2. Notwithstanding paragraph (a), if funds are
28 designated on a closing statement as tax collected from the
29 purchaser, but a default or cancellation occurs pursuant to s.
30 721.08(2)(a) or s. 721.08(2)(b) and no deed or other
31 instrument conveying interest in Florida real property has

Bill No. HB 1813

Barcode 635506

1 been recorded or delivered to the purchaser, the tax must be
 2 paid to the department on or before the 20th day of the month
 3 following the month in which the funds are available for
 4 release from escrow unless the funds have been refunded to the
 5 purchaser.

6 (c) The department may adopt rules to administer the
 7 method for reporting tax due under this subsection.

8 Section 5. Subsection (8) is added to section 201.08,
 9 Florida Statutes, to read:

10 201.08 Tax on promissory or nonnegotiable notes,
 11 written obligations to pay money, or assignments of wages or
 12 other compensation; exception.--

13 (8)(a) In recognition of the special escrow
 14 requirements that apply to sales of timeshare interests in
 15 timeshare plans pursuant to s. 721.08, tax on notes or other
 16 written obligations and mortgages or other evidences of
 17 indebtedness executed in conjunction with the sale by a
 18 developer of a timeshare interest in a timeshare plan is due
 19 and payable on the earlier of the date on which:

20 1. The note, other written obligation, mortgage or
 21 other evidence of indebtedness is recorded or filed in this
 22 state; or

23 2. All of the conditions precedent to the release of
 24 the purchaser's escrowed funds or other property pursuant to
 25 s. 721.08(2)(c) have been met, regardless of whether the
 26 developer has posted an alternative assurance. Tax due under
 27 this subparagraph is due and payable on or before the 20th day
 28 of the month following the month in which these conditions
 29 were met.

30 (b)1. If tax has been paid to the department pursuant
 31 to subparagraph (a)2., and the note, other written obligation,

Bill No. HB 1813

Barcode 635506

1 mortgage, or other evidence of indebtedness with respect to
 2 which the tax was paid is subsequently recorded or filed in
 3 this state, a notation reflecting the prior payment of the tax
 4 must be made upon the note, other written obligation,
 5 mortgage, or other evidence of indebtedness recorded or filed
 6 in this state.

7 2. Notwithstanding paragraph (a), if funds are
 8 designated on a closing statement as tax collected from the
 9 purchaser, but the note, other written obligation, mortgage,
 10 or other evidence of indebtedness with respect to which the
 11 tax was collected has not been recorded or filed in this
 12 state, the tax shall be paid to the department on or before
 13 the 20th day of the month following the month in which the
 14 funds are available for release from escrow, unless the funds
 15 have been refunded to the purchaser.

16 (c) The department may adopt rules to administer the
 17 method for reporting tax due under this subsection.

18 Section 6. Paragraph (a) of subsection (15) of section
 19 202.11, Florida Statutes, is amended to read:

20 202.11 Definitions.--As used in this chapter:

21 (15) "Service address" means:

22 (a) Except as otherwise provided in this section:~~;~~

23 1. The location of the communications equipment from
 24 which communications services originate or at which
 25 communications services are received by the customer;~~i~~;

26 2. In the case of a communications service paid
 27 through a credit or payment mechanism that does not relate to
 28 a service address, such as a bank, travel, debit, or credit
 29 card, and in the case of third-number and calling-card calls,
 30 the term "service address" means ~~is~~ the address of the central
 31 office, as determined by the area code and the first three

Bill No. HB 1813

Barcode 635506

1 digits of the seven-digit originating telephone number; or-

2 3. If the location of the equipment described in
3 subparagraph 1. is not known and subparagraph 2. is
4 inapplicable, the term "service address" means the location of
5 the customer's primary use of the communications service. For
6 the purposes of this subparagraph, the location of the
7 customer's primary use of a communications service is the
8 residential street address or the business street address of
9 the customer.

10 Section 7. Subsection (6) is added to section 206.09,
11 Florida Statutes, to read:

12 206.09 Reports from carriers transporting motor fuel
13 or similar products.--

14 (6) All moneys derived from the penalties imposed by
15 this section shall be deposited into the Fuel Tax Collection
16 Trust Fund, and allocated in the same manner as provided by s.
17 206.875.

18 Section 8. Subsection (4) is added to section 206.095,
19 Florida Statutes, to read:

20 206.095 Reports from terminal operators.--

21 (4) All moneys derived from the penalties imposed by
22 this section shall be deposited into the Fuel Tax Collection
23 Trust Fund, and allocated in the same manner as provided by s.
24 206.875.

25 Section 9. Subsection (6) is added to section 206.14,
26 Florida Statutes, to read:

27 206.14 Inspection of records; audits; hearings; forms;
28 rules and regulations.--

29 (6) All moneys derived from the penalties imposed by
30 this section shall be deposited into the Fuel Tax Collection
31 Trust Fund, and allocated in the same manner as provided by s.

Bill No. HB 1813

Barcode 635506

1 206.875.

2 Section 10. Subsection (1) of section 206.27, Florida
3 Statutes, is amended to read:

4 206.27 Records and files as public records.--

5 (1) The records and files in the office of the
6 department appertaining to parts I and II of this chapter
7 shall be available in Tallahassee to the public at any time
8 during business hours. The department shall prepare and make
9 available a list each month of all current licensed terminal
10 suppliers, importers, exporters, and wholesalers which also
11 shall include all new licenses issued and all licenses
12 canceled during the past 12 months, ~~and mail a copy thereof to~~
13 ~~each licensee~~. Such list shall be used to verify license
14 numbers of purchasers issuing exemption certificates or
15 affidavits.

16 Section 11. Subsection (3) is added to section
17 206.485, Florida Statutes, to read:

18 206.485 Tracking system reporting requirements.--

19 (3) All moneys derived from the penalties imposed by
20 this section shall be deposited into the Fuel Tax Collection
21 Trust Fund, and allocated in the same manner as provided by s.

22 206.875.

23 Section 12. Paragraph (b) of subsection (4) of section
24 212.0305, Florida Statutes, is amended to read:

25 212.0305 Convention development taxes; intent;
26 administration; authorization; use of proceeds.--

27 (4) AUTHORIZATION TO LEVY; USE OF PROCEEDS; OTHER
28 REQUIREMENTS.--

29 (b) Charter county levy for convention development.--

30 1. Each county, as defined in s. 125.011(1), may
31 impose, under ~~pursuant to~~ an ordinance enacted by the

Bill No. HB 1813

Barcode 635506

1 governing body of the county, a levy on the exercise within
 2 its boundaries of the taxable privilege of leasing or letting
 3 transient rental accommodations described in subsection (3) at
 4 the rate of 3 percent of the total consideration charged
 5 therefor. The proceeds of this levy shall be known as the
 6 charter county convention development tax.

7 2. All charter county convention development moneys,
 8 including any interest accrued thereon, received by a county
 9 imposing the levy shall be used as follows:

10 a. Two-thirds of the proceeds shall be used to extend,
 11 enlarge, and improve the largest existing publicly owned
 12 convention center in the county.

13 b. One-third of the proceeds shall be used to
 14 construct a new multipurpose convention/coliseum/exhibition
 15 center/stadium or the maximum components thereof as funds
 16 permit in the most populous municipality in the county.

17 c. After the completion of any project under
 18 sub-subparagraph a., the tax revenues and interest accrued
 19 under sub-subparagraph a. may be used to acquire, construct,
 20 extend, enlarge, remodel, repair, improve, plan for, operate,
 21 manage, or maintain one or more convention centers, stadiums,
 22 exhibition halls, arenas, coliseums, ~~or~~ auditoriums, or golf
 23 courses, and may be used to acquire and construct an intercity
 24 light rail transportation system as described in the Light
 25 Rail Transit System Status Report to the Legislature dated
 26 April 1988, which shall provide a means to transport persons
 27 to and from the largest existing publicly owned convention
 28 center in the county and the hotels north of the convention
 29 center and to and from the downtown area of the most populous
 30 municipality in the county as determined by the county.

31 d. After completion of any project under

Bill No. HB 1813

Barcode 635506

1 sub-subparagraph b., the tax revenues and interest accrued
 2 under sub-subparagraph b. may be used, as determined by the
 3 county, to operate an authority created pursuant to
 4 subparagraph 4. or to acquire, construct, extend, enlarge,
 5 remodel, repair, improve, operate, or maintain one or more
 6 convention centers, stadiums, exhibition halls, arenas,
 7 coliseums, auditoriums, golf courses, or related buildings and
 8 parking facilities in the most populous municipality in the
 9 county.

10 e. For the purposes of completion of any project
 11 pursuant to this paragraph, tax revenues and interest accrued
 12 may be used:

13 (I) As collateral, pledged, or hypothecated for
 14 projects authorized by this paragraph, including bonds issued
 15 in connection therewith; or

16 (II) As a pledge or capital contribution in
 17 conjunction with a partnership, joint venture, or other
 18 business arrangement between a municipality and one or more
 19 business entities for projects authorized by this paragraph.

20 3. The governing body of each municipality in which a
 21 municipal tourist tax is levied may adopt a resolution
 22 prohibiting imposition of the charter county convention
 23 development levy within such municipality. If the governing
 24 body adopts such a resolution, the convention development levy
 25 shall be imposed by the county in all other areas of the
 26 county except such municipality. No funds collected pursuant
 27 to this paragraph may be expended in a municipality which has
 28 adopted such a resolution.

29 4.a. Before the county enacts an ordinance imposing
 30 the levy, the county shall notify the governing body of each
 31 municipality in which projects are to be developed pursuant to

Bill No. HB 1813

Barcode 635506

1 sub-subparagraph 2.a., sub-subparagraph 2.b., sub-subparagraph
 2 2.c., or sub-subparagraph 2.d. As a condition precedent to
 3 receiving funding, the governing bodies of such municipalities
 4 shall designate or appoint an authority that shall have the
 5 sole power to:

6 (I) Approve the concept, location, program, and design
 7 of the facilities or improvements to be built in accordance
 8 with this paragraph and to administer and disburse such
 9 proceeds and any other related source of revenue.

10 (II) Appoint and dismiss the authority's executive
 11 director, general counsel, and any other consultants retained
 12 by the authority. The governing body shall have the right to
 13 approve or disapprove the initial appointment of the
 14 authority's executive director and general counsel.

15 b. The members of each such authority shall serve for
 16 a term of not less than 1 year and shall be appointed by the
 17 governing body of such municipality. The annual budget of such
 18 authority shall be subject to approval of the governing body
 19 of the municipality. If the governing body does not approve
 20 the budget, the authority shall use as the authority's budget
 21 the previous fiscal year budget.

22 c. The authority, by resolution to be adopted from
 23 time to time, may invest and reinvest the proceeds from the
 24 convention development tax and any other revenues generated by
 25 the authority in the same manner that the municipality in
 26 which the authority is located may invest surplus funds.

27 5. The charter county convention development levy
 28 shall be in addition to any other levy imposed pursuant to
 29 this section.

30 6. A certified copy of the ordinance imposing the levy
 31 shall be furnished by the county to the department within 10

Bill No. HB 1813

Barcode 635506

1 days after approval of such ordinance. The effective date of
2 imposition of the levy shall be the first day of any month at
3 least 60 days after enactment of the ordinance.

4 7. Revenues collected pursuant to this paragraph shall
5 be deposited in a convention development trust fund, which
6 shall be established by the county as a condition precedent to
7 receipt of such funds.

8 Section 13. Paragraph (a) of subsection (1) of section
9 212.05, Florida Statutes, is amended to read:

10 212.05 Sales, storage, use tax.--It is hereby declared
11 to be the legislative intent that every person is exercising a
12 taxable privilege who engages in the business of selling
13 tangible personal property at retail in this state, including
14 the business of making mail order sales, or who rents or
15 furnishes any of the things or services taxable under this
16 chapter, or who stores for use or consumption in this state
17 any item or article of tangible personal property as defined
18 herein and who leases or rents such property within the state.

19 (1) For the exercise of such privilege, a tax is
20 levied on each taxable transaction or incident, which tax is
21 due and payable as follows:

22 (a)1.

23 a. At the rate of 6 percent of the sales price of each
24 item or article of tangible personal property when sold at
25 retail in this state, computed on each taxable sale for the
26 purpose of remitting the amount of tax due the state, and
27 including each and every retail sale.

28 b. Each occasional or isolated sale of an aircraft,
29 boat, mobile home, or motor vehicle of a class or type which
30 is required to be registered, licensed, titled, or documented
31 in this state or by the United States Government shall be

Bill No. HB 1813

Barcode 635506

1 subject to tax at the rate provided in this paragraph. The
 2 department shall by rule adopt any nationally recognized
 3 publication for valuation of used motor vehicles as the
 4 reference price list for any used motor vehicle which is
 5 required to be licensed pursuant to s. 320.08(1), (2), (3)(a),
 6 (b), (c), or (e), or (9). If any party to an occasional or
 7 isolated sale of such a vehicle reports to the tax collector a
 8 sales price which is less than 80 percent of the average loan
 9 price for the specified model and year of such vehicle as
 10 listed in the most recent reference price list, the tax levied
 11 under this paragraph shall be computed by the department on
 12 such average loan price unless the parties to the sale have
 13 provided to the tax collector an affidavit signed by each
 14 party, or other substantial proof, stating the actual sales
 15 price. Any party to such sale who reports a sales price less
 16 than the actual sales price is guilty of a misdemeanor of the
 17 first degree, punishable as provided in s. 775.082 or s.
 18 775.083. The department shall collect or attempt to collect
 19 from such party any delinquent sales taxes. In addition, such
 20 party shall pay any tax due and any penalty and interest
 21 assessed plus a penalty equal to twice the amount of the
 22 additional tax owed. Notwithstanding any other provision of
 23 law, the Department of Revenue may waive or compromise any
 24 penalty imposed pursuant to this subparagraph.

25 2. This paragraph does not apply to the sale of a boat
 26 or aircraft ~~airplane~~ by or through a registered dealer under
 27 this chapter to a purchaser who, at the time of taking
 28 delivery, is a nonresident of this state, does not make his or
 29 her permanent place of abode in this state, and is not engaged
 30 in carrying on in this state any employment, trade, business,
 31 or profession in which the boat or aircraft will be used in

Bill No. HB 1813

Barcode 635506

1 this state, or is a corporation none of the officers or
2 directors of which is a resident of, or makes his or her
3 permanent place of abode in, this state, or is a noncorporate
4 entity that has no individual vested with authority to
5 participate in the management, direction, or control of the
6 entity's affairs who is a resident of, or makes his or her
7 permanent abode in, this state. For purposes of this
8 exemption, either a registered dealer acting on his or her own
9 behalf as seller, a registered dealer acting as broker on
10 behalf of a seller, or a registered dealer acting as broker on
11 behalf of the purchaser may be deemed to be the selling
12 dealer. This exemption shall not be allowed unless:

13 a. The purchaser removes a qualifying boat, as
14 described in sub-subparagraph f., from the state within 90
15 days after the date of purchase or the purchaser removes a
16 nonqualifying boat or an aircraft ~~airplane~~ from this state
17 within 10 days after the date of purchase or, when the boat or
18 aircraft ~~airplane~~ is repaired or altered, within 20 days after
19 completion of the repairs or alterations;

20 b. The purchaser, within 30 days from the date of
21 departure, shall provide the department with written proof
22 that the purchaser licensed, registered, titled, or documented
23 the boat or aircraft ~~airplane~~ outside the state. If such
24 written proof is unavailable, within 30 days the purchaser
25 shall provide proof that the purchaser applied for such
26 license, title, registration, or documentation. The purchaser
27 shall forward to the department proof of title, license,
28 registration, or documentation upon receipt.

29 c. The purchaser, within 10 days of removing the boat
30 or aircraft ~~airplane~~ from Florida, shall furnish the
31 department with proof of removal in the form of receipts for

Bill No. HB 1813

Barcode 635506

1 fuel, dockage, slippage, tie-down, or hangaring from outside
2 of Florida. The information so provided must clearly and
3 specifically identify the boat or aircraft;

4 d. The selling dealer, within 5 days of the date of
5 sale, shall provide to the department a copy of the sales
6 invoice, closing statement, bills of sale, and the original
7 affidavit signed by the purchaser attesting that he or she has
8 read the provisions of this section;

9 e. The seller makes a copy of the affidavit a part of
10 his or her record for as long as required by s. 213.35; and

11 f. Unless the nonresident purchaser of a boat of 5 net
12 tons of admeasurement or larger intends to remove the boat
13 from this state within 10 days after the date of purchase or
14 when the boat is repaired or altered, within 20 days after
15 completion of the repairs or alterations, the nonresident
16 purchaser shall apply to the selling dealer for a decal which
17 authorizes 90 days after the date of purchase for removal of
18 the boat. The department is authorized to issue decals in
19 advance to dealers. The number of decals issued in advance to
20 a dealer shall be consistent with the volume of the dealer's
21 past sales of boats which qualify under this sub-subparagraph.
22 The selling dealer or his or her agent shall mark and affix
23 the decals to qualifying boats in the manner prescribed by the
24 department, prior to delivery of the boat.

25 (I) The department is hereby authorized to charge
26 dealers a fee sufficient to recover the costs of decals
27 issued.

28 (II) The proceeds from the sale of decals will be
29 deposited into the administrative trust fund.

30 (III) Decals shall display information to identify the
31 boat as a qualifying boat under this sub-subparagraph,

Bill No. HB 1813

Barcode 635506

1 including, but not limited to, the decal's date of expiration.

2 (IV) The department is authorized to require dealers
3 who purchase decals to file reports with the department and
4 may prescribe all necessary records by rule. All such records
5 are subject to inspection by the department.

6 (V) Any dealer or his or her agent who issues a decal
7 falsely, fails to affix a decal, mismarks the expiration date
8 of a decal, or fails to properly account for decals will be
9 considered prima facie to have committed a fraudulent act to
10 evade the tax and will be liable for payment of the tax plus a
11 mandatory penalty of 200 percent of the tax, and shall be
12 liable for fine and punishment as provided by law for a
13 conviction of a misdemeanor of the first degree, as provided
14 in s. 775.082 or s. 775.083.

15 (VI) Any nonresident purchaser of a boat who removes a
16 decal prior to permanently removing the boat from the state,
17 or defaces, changes, modifies, or alters a decal in a manner
18 affecting its expiration date prior to its expiration, or who
19 causes or allows the same to be done by another, will be
20 considered prima facie to have committed a fraudulent act to
21 evade the tax and will be liable for payment of the tax plus a
22 mandatory penalty of 200 percent of the tax, and shall be
23 liable for fine and punishment as provided by law for a
24 conviction of a misdemeanor of the first degree, as provided
25 in s. 775.082 or s. 775.083.

26 (VII) The department is authorized to adopt rules
27 necessary to administer and enforce this subparagraph and to
28 publish the necessary forms and instructions.

29 (VIII) The department is hereby authorized to adopt
30 emergency rules pursuant to s. 120.54(4) to administer and
31 enforce the provisions of this subparagraph.

Bill No. HB 1813

Barcode 635506

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2 If the purchaser fails to remove the qualifying boat from this
3 state within 90 days after purchase or a nonqualifying boat or
4 an aircraft ~~airplane~~ from this state within 10 days after
5 purchase or, when the boat or aircraft ~~airplane~~ is repaired or
6 altered, within 20 days after completion of such repairs or
7 alterations, or permits the boat or aircraft ~~airplane~~ to
8 return to this state within 6 months from the date of
9 departure, or if the purchaser fails to furnish the department
10 with any of the documentation required by this subparagraph
11 within the prescribed time period, the purchaser shall be
12 liable for use tax on the cost price of the boat or aircraft
13 ~~airplane~~ and, in addition thereto, payment of a penalty to the
14 Department of Revenue equal to the tax payable. This penalty
15 shall be in lieu of the penalty imposed by s. 212.12(2) and is
16 mandatory and shall not be waived by the department. The
17 90-day period following the sale of a qualifying boat tax
18 exempt to a nonresident may not be tolled for any reason.
19 Notwithstanding other provisions of this paragraph to the
20 contrary, an aircraft purchased in this state under the
21 provisions of this paragraph may be returned to this state for
22 repairs within 6 months after the date of its departure
23 without being in violation of the law and without incurring
24 liability for the payment of tax or penalty on the purchase
25 price of the aircraft if the aircraft is removed from this
26 state within 20 days after the completion of the repairs and
27 if such removal can be demonstrated by invoices for fuel,
28 tie-down, hangar charges issued by out-of-state vendors or
29 suppliers, or similar documentation.

30 Section 14. Paragraph (e) of subsection (1) of section
31 212.06, Florida Statutes, is amended to read:

Bill No. HB 1813

Barcode 635506

1 212.06 Sales, storage, use tax; collectible from
2 dealers; "dealer" defined; dealers to collect from purchasers;
3 legislative intent as to scope of tax.--

4 (1)

5 (e)1. Notwithstanding any other provision of this
6 chapter, tax shall not be imposed on any vessel registered
7 under ~~pursuant to~~ s. 328.52 by a vessel dealer or vessel
8 manufacturer with respect to a vessel used solely for
9 demonstration, sales promotional, or testing purposes. The
10 term "promotional purposes" shall include, but not be limited
11 to, participation in fishing tournaments. For the purposes of
12 this paragraph, "promotional purposes" means the entry of the
13 vessel in a marine-related event where prospective purchasers
14 would be in attendance, where the vessel is entered in the
15 name of the dealer or manufacturer, and where the vessel is
16 clearly marked as for sale, on which vessel the name of the
17 dealer or manufacturer is clearly displayed, and which vessel
18 has never been transferred into the dealer's or manufacturer's
19 accounting books from an inventory item to a capital asset for
20 depreciation purposes.

21 2. The provisions of this paragraph do not apply to
22 any vessel when used for transporting persons or goods for
23 compensation; when offered, let, or rented to another for
24 consideration; when offered for rent or hire as a means of
25 transportation for compensation; or when offered or used to
26 provide transportation for persons solicited through personal
27 contact or through advertisement on a "share expense" basis.

28 3. Notwithstanding any other provision of this
29 chapter, tax may not be imposed on any vessel imported into
30 this state for the sole purpose of being offered for sale at
31 retail by a yacht broker or yacht dealer registered in this

Bill No. HB 1813

Barcode 635506

1 state if the vessel remains under the care, custody, and
 2 control of the registered broker or dealer and the owner of
 3 the vessel does not make personal use of the vessel during
 4 that time. The provisions of this chapter govern the
 5 taxability of any sale or use of the vessel subsequent to its
 6 importation under this provision.

7 Section 15. Paragraph (e) of subsection (4) of section
 8 212.11, Florida Statutes, is amended to read:

9 212.11 Tax returns and regulations.--

10 (4)

11 (e) The penalty provisions of this chapter, except s.
 12 212.12(2)(f) ~~s. 212.12(2)(e)~~, apply to the provisions of this
 13 subsection.

14 Section 16. Present paragraph (e) of subsection (2) of
 15 section 212.12, Florida Statutes, is redesignated as paragraph
 16 (f), present paragraph (f) of that subsection is redesignated
 17 as paragraph (g) and amended, and a new paragraph (e) is added
 18 to that subsection, to read:

19 212.12 Dealer's credit for collecting tax; penalties
 20 for noncompliance; powers of Department of Revenue in dealing
 21 with delinquents; brackets applicable to taxable transactions;
 22 records required.--

23 (2)

24 (e) A person who willfully attempts in any manner to
 25 evade any tax, surcharge, or fee imposed under this chapter or
 26 the payment thereof is, in addition to any other penalties
 27 provided by law, liable for a specific penalty in the amount
 28 of 100 percent of the tax, surcharge, or fee, and commits a
 29 felony of the third degree, punishable as provided in s.
 30 775.082, s. 775.083, or s. 775.084.

31 ~~(g)(f)~~ A dealer who files ~~Dealers filing a~~

Bill No. HB 1813

Barcode 635506

1 consolidated return pursuant to s. 212.11(1)(e) ~~is shall be~~
 2 subject to the penalty established in paragraph (e) unless the
 3 dealer has paid the required estimated tax for his or her
 4 consolidated return as a whole without regard to each
 5 location. If the dealer fails to pay the required estimated
 6 tax for his or her consolidated return as a whole, each filing
 7 location shall stand on its own with respect to calculating
 8 penalties pursuant to paragraph ~~(f)~~(e).

9 Section 17. Paragraph (1) of subsection (7) of section
 10 213.053, Florida Statutes, is amended to read:

11 213.053 Confidentiality and information sharing.--

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

14 (1) Information relative to chapter 212 and the Bill
 15 of Lading Program to the Office of Agriculture Law Enforcement
 16 of the Department of Agriculture and Consumer Services in the
 17 conduct of its official duties ~~the Bill of Lading Program~~.
 18 ~~This information is limited to the business name and whether~~
 19 ~~the business is in compliance with chapter 212.~~

20 Section 18. Subsection (10) of section 213.21, Florida
 21 Statutes, is amended to read:

22 213.21 Informal conferences; compromises.--

23 (10)(a) ~~Effective July 1, 2003,~~ Notwithstanding any
 24 other provision of law and solely for the purpose of
 25 administering the taxes tax imposed by ss. 125.0104 and
 26 125.0108, and chapter 212, except s. 212.0606, under the
 27 circumstances set forth in this subsection, the department
 28 shall settle or compromise a taxpayer's liability for penalty
 29 without requiring the taxpayer to submit a written request for
 30 compromise or settlement.

31 (b) For taxpayers who file returns and remit tax on a

Bill No. HB 1813

Barcode 635506

1 monthly basis:

2 1. Any penalty related to a noncompliant filing event
3 shall be settled or compromised if the taxpayer has:

4 a. No noncompliant filing event in the immediately
5 preceding 12-month period and no unresolved ~~chapter 212~~
6 liability under s. 125.0104, s. 125.0108, or chapter 212
7 resulting from a noncompliant filing event; or

8 b. One noncompliant filing event in the immediately
9 preceding 12-month period, resolution of the current
10 noncompliant filing event through payment of tax and interest
11 and the filing of a return within 30 days after notification
12 by the department, and no unresolved ~~chapter 212~~ liability
13 under s. 125.0104, s. 125.0108, or chapter 212 resulting from
14 a noncompliant filing event.

15 2. If a taxpayer has two or more noncompliant filing
16 events in the immediately preceding 12-month period, the
17 taxpayer shall be liable, absent a showing by the taxpayer
18 that the noncompliant filing event was due to extraordinary
19 circumstances, for the penalties provided in s. 125.0104 or s.
20 125.0108 and s. 212.12, including loss of collection
21 allowance, and shall be reported to a credit bureau.

22 (c) For taxpayers who file returns and remit tax on a
23 quarterly basis, any penalty related to a noncompliant filing
24 event shall be settled or compromised if the taxpayer has no
25 noncompliant filing event in the immediately preceding
26 12-month period and no unresolved ~~chapter 212~~ liability under
27 s. 125.0104, s. 125.0108, or chapter 212 resulting from a
28 noncompliant filing event.

29 (d) For purposes of this subsection:

30 1. "Noncompliant filing event" means a failure to
31 timely file a complete and accurate return required under s.

Bill No. HB 1813

Barcode 635506

1 125.0104, s. 125.0108, or chapter 212 or a failure to timely
2 pay the amount of tax reported on a return required by s.
3 125.0104, s. 125.0108, or chapter 212.

4 2. "Extraordinary circumstances" means the occurrence
5 of events beyond the control of the taxpayer, such as, but not
6 limited to, the death of the taxpayer, acts of war or
7 terrorism, natural disasters, fire, or other casualty, or the
8 nonfeasance or misfeasance of the taxpayer's employees or
9 representatives responsible for compliance with s. 125.0104,
10 s. 125.0108, or ~~the provisions of~~ chapter 212. With respect to
11 the acts of an employee or representative, the taxpayer must
12 show that the principals of the business lacked actual
13 knowledge of the noncompliance and that the noncompliance was
14 resolved within 30 days after actual knowledge.

15 Section 19. The amendment to section 213.21(10),
16 Florida Statutes, as made by this act, shall operate
17 retroactively to July 1, 2003.

18 Section 20. Subsections (1) and (2) of section 213.27,
19 Florida Statutes, are amended to read:

20 213.27 Contracts with debt collection agencies and
21 certain vendors.--

22 (1) The Department of Revenue may, for the purpose of
23 collecting any delinquent taxes due from a taxpayer, including
24 taxes for which a bill or notice has been generated, contract
25 with any debt collection agency or attorney doing business
26 within or without this state for the collection of such
27 delinquent taxes including penalties and interest thereon. The
28 department may also share confidential information pursuant to
29 the contract necessary for the collection of delinquent taxes
30 and taxes for which a billing or notice has been generated.

31 Contracts will be made pursuant to chapter 287. The taxpayer

Bill No. HB 1813

Barcode 635506

1 must be notified by mail by the department, its employees, or
 2 its authorized representative at least 30 days prior to
 3 commencing any litigation to recover any delinquent taxes. The
 4 taxpayer must be notified by mail by the department at least
 5 30 days prior to the initial assignment by the department of
 6 the taxpayer's account for ~~assigning~~ the collection of any
 7 taxes by ~~to~~ the debt collection agency.

8 (2) The department may enter into contracts with any
 9 individual or business for the purpose of identifying
 10 intangible personal property tax liability. Contracts may
 11 provide for the identification of assets subject to the tax on
 12 intangible personal property, the determination of value of
 13 such property, the requirement for filing a tax return and the
 14 collection of taxes due, including applicable penalties and
 15 interest thereon. The department may share confidential
 16 information pursuant to the contract necessary for the
 17 identification of taxable intangible personal property.
 18 Contracts shall be made pursuant to chapter 287. The taxpayer
 19 must be notified by mail by the department at least 30 days
 20 prior to the department assigning identification of intangible
 21 personal property to an individual or business.

22 Section 21. Subsection (2) of section 215.26, Florida
 23 Statutes, is amended to read:

24 215.26 Repayment of funds paid into State Treasury
 25 through error.--

26 (2) Application for refunds as provided by this
 27 section must be filed with the Chief Financial Officer, except
 28 as otherwise provided in this subsection, within 3 years after
 29 the right to the refund has accrued or else the right is
 30 barred. Except as provided in chapter 198, ~~and~~ s. 220.23, and
 31 s. 624.50921, an application for a refund of a tax enumerated

Bill No. HB 1813

Barcode 635506

1 in s. 72.011, which tax was paid after September 30, 1994, and
2 before July 1, 1999, must be filed with the Chief Financial
3 Officer within 5 years after the date the tax is paid, and
4 within 3 years after the date the tax was paid for taxes paid
5 on or after July 1, 1999. The Chief Financial Officer may
6 delegate the authority to accept an application for refund to
7 any state agency, or the judicial branch, vested by law with
8 the responsibility for the collection of any tax, license, or
9 account due. The application for refund must be on a form
10 approved by the Chief Financial Officer and must be
11 supplemented with additional proof the Chief Financial Officer
12 deems necessary to establish the claim; provided, the claim is
13 not otherwise barred under the laws of this state. Upon
14 receipt of an application for refund, the judicial branch or
15 the state agency to which the funds were paid shall make a
16 determination of the amount due. If an application for refund
17 is denied, in whole or in part, the judicial branch or such
18 state agency shall notify the applicant stating the reasons
19 therefor. Upon approval of an application for refund, the
20 judicial branch or such state agency shall furnish the Chief
21 Financial Officer with a properly executed voucher authorizing
22 payment.

23 Section 22. Effective for policies issued or renewed
24 on or after January 1, 2006, section 252.372, Florida
25 Statutes, is amended to read:

26 252.372 Imposition and collection of surcharge.--In
27 order to provide funds for emergency management, preparedness,
28 and assistance, an annual surcharge of \$2 per policy shall be
29 imposed on every homeowner's, mobile home owner's, tenant
30 homeowner's, and condominium unit owner's policy, and an
31 annual \$4 surcharge shall be imposed on every commercial fire,

Bill No. HB 1813

Barcode 635506

1 commercial multiple peril, and business owner's property
2 insurance policy, issued or renewed on or after May 1, 1993.
3 The surcharge shall be paid by the policyholder to the
4 insurer. The insurer shall collect the surcharge and remit it
5 to the Department of Revenue, which shall collect, administer,
6 audit, and enforce the surcharge pursuant to s. 624.5092. The
7 surcharge is not to be considered premiums of the insurer;
8 however, nonpayment of the surcharge by the insured may be a
9 valid reason for cancellation of the policy. For those
10 policies in which the surplus lines tax and the service fee
11 are collected and remitted to the Surplus Lines Service
12 Office, as created under s. 626.921, the surcharge must be
13 remitted to the service office at the same time as the surplus
14 lines tax is remitted. All penalties for failure to remit the
15 surplus lines tax and service fee are applicable for those
16 surcharges required to be remitted to the service office. The
17 service office shall deposit all surcharges that it collects
18 into the Emergency Management, Preparedness, and Assistance
19 Trust Fund at least monthly. All proceeds of the surcharge
20 shall be deposited in the Emergency Management, Preparedness,
21 and Assistance Trust Fund and may not be used to supplant
22 existing funding.

23 Section 23. Effective January 1, 2006, paragraph (e)
24 of subsection (3) of section 443.131, Florida Statutes, is
25 amended, present paragraphs (g), (h), (i), and (j) of that
26 subsection are redesignated as paragraphs (h), (i), (j), and
27 (k), respectively, and a new paragraph (g) is added to that
28 subsection to read:

29 443.131 Contributions.--

30 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
31 EXPERIENCE.--

Bill No. HB 1813

Barcode 635506

1 (e) Assignment of variations from the standard rate.--

2 1. The tax collection service provider shall assign a
3 variation from the standard rate of contributions for each
4 calendar year to each eligible employer. In determining the
5 contribution rate, varying from the standard rate to be
6 assigned each employer, adjustment factors computed under
7 sub-subparagraphs a.-c. shall be added to the benefit ratio.
8 This addition shall be accomplished in two steps by adding a
9 variable adjustment factor and a final adjustment factor. The
10 sum of these adjustment factors computed under
11 sub-subparagraphs a.-c. shall first be algebraically summed.
12 The sum of these adjustment factors shall next be divided by a
13 gross benefit ratio determined as follows: Total benefit
14 payments for the 3-year period described in subparagraph (b)2.
15 shall be charged to employers eligible for a variation from
16 the standard rate, minus excess payments for the same period,
17 divided by taxable payroll entering into the computation of
18 individual benefit ratios for the calendar year for which the
19 contribution rate is being computed. The ratio of the sum of
20 the adjustment factors computed under sub-subparagraphs a.-c.
21 to the gross benefit ratio shall be multiplied by each
22 individual benefit ratio that is less than the maximum
23 contribution rate to obtain variable adjustment factors;
24 except that in any instance in which the sum of an employer's
25 individual benefit ratio and variable adjustment factor
26 exceeds the maximum contribution rate, the variable adjustment
27 factor shall be reduced in order that the sum equals the
28 maximum contribution rate. The variable adjustment factor for
29 each of these employers is multiplied by his or her taxable
30 payroll entering into the computation of his or her benefit
31 ratio. The sum of these products shall be divided by the

Bill No. HB 1813

Barcode 635506

1 taxable payroll of the employers who entered into the
2 computation of their benefit ratios. The resulting ratio shall
3 be subtracted from the sum of the adjustment factors computed
4 under sub-subparagraphs a.-c. to obtain the final adjustment
5 factor. The variable adjustment factors and the final
6 adjustment factor shall be computed to five decimal places and
7 rounded to the fourth decimal place. This final adjustment
8 factor shall be added to the variable adjustment factor and
9 benefit ratio of each employer to obtain each employer's
10 contribution rate. An employer's contribution rate may not,
11 however, be rounded to less than 0.1 percent.

12 a. An adjustment factor for noncharge benefits shall
13 be computed to the fifth decimal place and rounded to the
14 fourth decimal place by dividing the amount of noncharge
15 benefits during the 3-year period described in subparagraph
16 (b)2. by the taxable payroll of employers eligible for a
17 variation from the standard rate who have a benefit ratio for
18 the current year which is less than the maximum contribution
19 rate. For purposes of computing this adjustment factor, the
20 taxable payroll of these employers is the taxable payrolls for
21 the 3 years ending June 30 of the current calendar year as
22 reported to the tax collection service provider by September
23 30 of the same calendar year. As used in this
24 sub-subparagraph, the term "noncharge benefits" means benefits
25 paid to an individual from the Unemployment Compensation Trust
26 Fund, but which were not charged to the employment record of
27 any employer.

28 b. An adjustment factor for excess payments shall be
29 computed to the fifth decimal place, and rounded to the fourth
30 decimal place by dividing the total excess payments during the
31 3-year period described in subparagraph (b)2. by the taxable

Bill No. HB 1813

Barcode 635506

1 payroll of employers eligible for a variation from the
2 standard rate who have a benefit ratio for the current year
3 which is less than the maximum contribution rate. For purposes
4 of computing this adjustment factor, the taxable payroll of
5 these employers is the same figure used to compute the
6 adjustment factor for noncharge benefits under
7 sub-subparagraph a. As used in this sub-subparagraph, the term
8 "excess payments" means the amount of benefits charged to the
9 employment record of an employer during the 3-year period
10 described in subparagraph (b)2., less the product of the
11 maximum contribution rate and the employer's taxable payroll
12 for the 3 years ending June 30 of the current calendar year as
13 reported to the tax collection service provider by September
14 30 of the same calendar year. As used in this
15 sub-subparagraph, the term "total excess payments" means the
16 sum of the individual employer excess payments for those
17 employers that were eligible to be considered for assignment
18 of a contribution rate different a variation from the standard
19 rate.

20 c. If the balance of the Unemployment Compensation
21 Trust Fund on June 30 of the calendar year immediately
22 preceding the calendar year for which the contribution rate is
23 being computed is less than 3.7 percent of the taxable
24 payrolls for the year ending June 30 as reported to the tax
25 collection service provider by September 30 of that calendar
26 year, a positive adjustment factor shall be computed. The
27 positive adjustment factor shall be computed annually to the
28 fifth decimal place and rounded to the fourth decimal place by
29 dividing the sum of the total taxable payrolls for the year
30 ending June 30 of the current calendar year as reported to the
31 tax collection service provider by September 30 of that

Bill No. HB 1813

Barcode 635506

1 calendar year into a sum equal to one-fourth of the difference
2 between the balance of the fund as of June 30 of that calendar
3 year and the sum of 4.7 percent of the total taxable payrolls
4 for that year. The positive adjustment factor remains in
5 effect for subsequent years until the balance of the
6 Unemployment Compensation Trust Fund as of June 30 of the year
7 immediately preceding the effective date of the contribution
8 rate equals or exceeds 3.7 percent of the taxable payrolls for
9 the year ending June 30 of the current calendar year as
10 reported to the tax collection service provider by September
11 30 of that calendar year. If the balance of the Unemployment
12 Compensation Trust Fund as of June 30 of the year immediately
13 preceding the calendar year for which the contribution rate is
14 being computed exceeds 4.7 percent of the taxable payrolls for
15 the year ending June 30 of the current calendar year as
16 reported to the tax collection service provider by September
17 30 of that calendar year, a negative adjustment factor shall
18 be computed. The negative adjustment factor shall be computed
19 annually to the fifth decimal place and rounded to the fourth
20 decimal place by dividing the sum of the total taxable
21 payrolls for the year ending June 30 of the current calendar
22 year as reported to the tax collection service provider by
23 September 30 of the calendar year into a sum equal to
24 one-fourth of the difference between the balance of the fund
25 as of June 30 of the current calendar year and 4.7 percent of
26 the total taxable payrolls of that year. The negative
27 adjustment factor remains in effect for subsequent years until
28 the balance of the Unemployment Compensation Trust Fund as of
29 June 30 of the year immediately preceding the effective date
30 of the contribution rate is less than 4.7 percent, but more
31 than 3.7 percent of the taxable payrolls for the year ending

Bill No. HB 1813

Barcode 635506

1 June 30 of the current calendar year as reported to the tax
2 collection service provider by September 30 of that calendar
3 year.

4 d. The maximum contribution rate that may be assigned
5 to an employer is 5.4 percent, except employers participating
6 in an approved short-time compensation plan may be assigned a
7 maximum contribution rate that is 1 percent greater than the
8 maximum contribution rate for other employers in any calendar
9 year in which short-time compensation benefits are charged to
10 the employer's employment record.

11 2. If the transfer of an employer's employment record
12 to an employing unit under paragraph (f) which, before the
13 transfer, was an employer, the tax collection service provider
14 shall recompute a benefit ratio for the successor employer
15 based on the combined employment records and reassign an
16 appropriate contribution rate to the successor employer
17 effective on the first day of the calendar quarter immediately
18 after the effective date of the transfer.

19 (g) Notwithstanding any other provision of law, upon
20 transfer or acquisition of a business, the following
21 conditions apply to the assignment of rates and to transfers
22 of unemployment experience:

23 1.a. If an employer transfers its trade or business,
24 or a portion thereof, to another employer and, at the time of
25 the transfer, there is any common ownership, management, or
26 control of the two employers, the unemployment experience
27 attributable to the transferred trade or business shall be
28 transferred to the employer to whom the business is so
29 transferred. The rates of both employers shall be
30 recalculated and made effective as of the beginning of the
31 calendar quarter immediately following the date of the

Barcode 635506

1 transfer of the trade or business unless the transfer occurred
2 on the first day of a calendar quarter, in which case the rate
3 shall be recalculated as of that date.

4 b. If, following a transfer of experience under
5 sub-subparagraph a., the Agency for Workforce Innovation or
6 the tax collection service provider determines that a
7 substantial purpose of the transfer of trade or business was
8 to obtain a reduced liability for contributions, the
9 experience rating account of the employers involved shall be
10 combined into a single account and a single rate assigned to
11 the account.

12 2. Whenever a person who is not at the time an
13 employer under this chapter acquires the trade or business of
14 an employer, the unemployment experience of the acquired
15 business shall not be transferred to the person if the Agency
16 for Workforce Innovation or the tax collection service
17 provider finds that such person acquired the business solely
18 or primarily for the purpose of obtaining a lower rate of
19 contributions. Instead, such person shall be assigned the new
20 employer rate under paragraph (2)(a). In determining whether
21 the business was acquired solely or primarily for the purpose
22 of obtaining a lower rate of contributions, the tax collection
23 service provider shall consider:

- 24 a. Whether the person continued the business
25 enterprise of the acquired business;
- 26 b. How long such business enterprise was continued; or
- 27 c. Whether a substantial number of new employees was
28 hired for performance of duties unrelated to the business
29 activity conducted before the acquisition.

30 3. If a person knowingly violates or attempts to
31 violate subparagraph 1. or subparagraph 2. or any other

Bill No. HB 1813

Barcode 635506

1 provision of this chapter relating to determining the
 2 assignment of a contribution rate, or if a person knowingly
 3 advises another person to violate the law, the person shall be
 4 subject to the following penalties:

5 a. If the person is an employer, the employer shall be
 6 assigned the highest rate assignable under this chapter for
 7 the rate year during which such violation or attempted
 8 violation occurred and for the 3 rate years immediately
 9 following this rate year. However, if the person's business is
 10 already at the highest rate for any year, or if the amount of
 11 increase in the person's rate would be less than 2 percent for
 12 such year, then a penalty rate of contribution of 2 percent of
 13 taxable wages shall be imposed for such year.

14 b. If the person is not an employer, the person shall
 15 be subject to a civil penalty of not more than \$5,000. The
 16 procedures for the assessment of a penalty shall be in
 17 accordance with the procedures set forth in s. 443.141(2), and
 18 the provisions of s. 443.141(3) shall apply to the collection
 19 of the penalty. Any such penalty shall be deposited in the
 20 penalty and interest account established under s. 443.211(2).

21 4. For the purposes of this paragraph, the term:

22 a. "Knowingly" means having actual knowledge of or
 23 acting with deliberate ignorance or reckless disregard for the
 24 prohibition involved.

25 b. "Violates or attempts to violate" includes, but is
 26 not limited to, intent to evade, misrepresent, or willfully
 27 nondisclose.

28 c. "Person" has the meaning given to the term by s.
 29 7701(a)(1) of the Internal Revenue Code of 1986.

30 d. "Trade or business" includes the employer's
 31 workforce.

Bill No. HB 1813

Barcode 635506

1 5. In addition to the penalty imposed by subparagraph
 2 3., any person who violates this paragraph commits a felony of
 3 the third degree, punishable as provided in s. 775.082, s.
 4 775.083, or s. 775.084.

5 6. The Agency for Workforce Innovation and the tax
 6 collection service provider shall establish procedures to
 7 identify the transfer or acquisition of a business for the
 8 purposes of this paragraph and shall adopt any rules necessary
 9 to administer this paragraph.

10 7. This paragraph shall be interpreted and applied in
 11 such a manner as to meet the minimum requirements contained in
 12 any guidance or regulations issued by the United States
 13 Department of Labor.

14 Section 24. Paragraph (a) of subsection (2) and
 15 paragraph (a) of subsection (3) of section 443.141, Florida
 16 Statutes, are amended to read:

17 443.141 Collection of contributions and
 18 reimbursements.--

19 (2) REPORTS, CONTRIBUTIONS, APPEALS.--

20 (a) Failure to make reports and pay contributions.--If
 21 an employing unit determined by the tax collection service
 22 provider to be an employer subject to this chapter fails to
 23 make and file any report as and when required by this chapter
 24 or by any rule of the Agency for Workforce Innovation or the
 25 state agency providing tax collection services, for the
 26 purpose of determining the amount of contributions due by the
 27 employer under this chapter, or if any filed report is found
 28 by the service provider to be incorrect or insufficient, and
 29 the employer, after being notified in writing by the service
 30 provider to file the report, or a corrected or sufficient
 31 report, as applicable, fails to file the report within 15 days

Bill No. HB 1813

Barcode 635506

1 after the date of the mailing of the notice, the tax
2 collection service provider may:

3 1. Determine the amount of contributions due from the
4 employer based on the information readily available to it,
5 which determination is deemed to be prima facie correct;

6 2. Assess the employer the amount of contributions
7 determined to be due; and

8 3. Immediately notify the employer by ~~registered or~~
9 ~~certified~~ mail of the determination and assessment including
10 penalties as provided in this chapter, if any, added and
11 assessed, and demand payment together with interest on the
12 amount of contributions from the date that amount was due and
13 payable.

14 (3) COLLECTION PROCEEDINGS.--

15 (a) Lien for payment of contributions or
16 reimbursements.--

17 1. There is created a lien in favor of the tax
18 collection service provider upon all the property, both real
19 and personal, of any employer liable for payment of any
20 contribution or reimbursement levied and imposed under this
21 chapter for the amount of the contributions or reimbursements
22 due, together with interest, costs, and penalties. If any
23 contribution or reimbursement imposed under this chapter or
24 any portion of that contribution, reimbursement, interest, or
25 penalty is not paid within 60 days after becoming delinquent,
26 the tax collection service provider may subsequently issue a
27 notice of lien that may be filed in the office of the clerk of
28 the circuit court of any county in which the delinquent
29 employer owns property or has conducted business. The notice
30 of lien must include the periods for which the contributions,
31 reimbursements, interest, or penalties are demanded and the

Bill No. HB 1813

Barcode 635506

1 amounts due. A copy of the notice of lien must be mailed to
2 the employer at her or his last known address ~~by registered~~
3 ~~mail~~. The notice of lien may not be issued and recorded until
4 15 days after the date the assessment becomes final under
5 subsection (2). Upon presentation of the notice of lien, the
6 clerk of the circuit court shall record it in a book
7 maintained for that purpose, and the amount of the notice of
8 lien, together with the cost of recording and interest
9 accruing upon the amount of the contribution or reimbursement,
10 becomes a lien upon the title to and interest, whether legal
11 or equitable, in any real property, chattels real, or personal
12 property of the employer against whom the notice of lien is
13 issued, in the same manner as a judgment of the circuit court
14 docketed in the office of the circuit court clerk, with
15 execution issued to the sheriff for levy. This lien is prior,
16 preferred, and superior to all mortgages or other liens filed,
17 recorded, or acquired after the notice of lien is filed. Upon
18 the payment of the amounts due, or upon determination by the
19 tax collection service provider that the notice of lien was
20 erroneously issued, the lien is satisfied when the service
21 provider acknowledges in writing that the lien is fully
22 satisfied. A lien's satisfaction does not need to be
23 acknowledged before any notary or other public officer, and
24 the signature of the director of the tax collection service
25 provider or his or her designee is conclusive evidence of the
26 satisfaction of the lien, which satisfaction shall be recorded
27 by the clerk of the circuit court who receives the fees for
28 those services.

29 2. The tax collection service provider may
30 subsequently issue a warrant directed to any sheriff in this
31 state, commanding him or her to levy upon and sell any real or

Bill No. HB 1813

Barcode 635506

1 personal property of the employer liable for any amount under
2 this chapter within his or her jurisdiction, for payment, with
3 the added penalties and interest and the costs of executing
4 the warrant, together with the costs of the clerk of the
5 circuit court in recording and docketing the notice of lien,
6 and to return the warrant to the service provider with
7 payment. The warrant may only be issued and enforced for all
8 amounts due to the tax collection service provider on the date
9 the warrant is issued, together with interest accruing on the
10 contribution or reimbursement due from the employer to the
11 date of payment at the rate provided in this section. In the
12 event of sale of any assets of the employer, however,
13 priorities under the warrant shall be determined in accordance
14 with the priority established by any notices of lien filed by
15 the tax collection service provider and recorded by the clerk
16 of the circuit court. The sheriff shall execute the warrant in
17 the same manner prescribed by law for executions issued by the
18 clerk of the circuit court for judgments of the circuit court.
19 The sheriff is entitled to the same fees for executing the
20 warrant as for a writ of execution out of the circuit court,
21 and these fees must be collected in the same manner.

22 Section 25. Section 624.50921, Florida Statutes, is
23 created to read:

24 624.50921 Adjustments.--

25 (1) If a taxpayer is required to amend its corporate
26 income tax liability under chapter 220, or the taxpayer
27 receives a refund of its workers' compensation administrative
28 assessment paid under chapter 440, the taxpayer shall file an
29 amended insurance premium tax return not later than 60 days
30 after such an occurrence.

31 (2) If an amended insurance premium tax return is

Bill No. HB 1813

Barcode 635506

1 required under subsection (1), notwithstanding any other
2 provision of s. 95.091(3):

3 (a) A notice of deficiency may be issued at any time
4 within 3 years after the date the amended insurance premium
5 tax return is given; or

6 (b) If a taxpayer fails to file an amended insurance
7 premium tax return, a notice of deficiency may be issued at
8 any time.

9
10 The amount of any proposed assessment set forth in such a
11 notice of deficiency shall be limited to the amount of any
12 deficiency resulting under this code from recomputation of the
13 taxpayer's insurance premium tax and retaliatory tax for the
14 taxable year after giving effect only to the change in
15 corporate income tax paid and the change in the amount of the
16 workers' compensation administrative assessment paid.

17 Interest in accordance with s. 624.5092 is due on the amount
18 of any deficiency from the date fixed for filing the original
19 insurance premium tax return for the taxable year until the
20 date of payment of the deficiency.

21 (3) If an amended insurance premium tax return is
22 required by subsection (1), a claim for refund may be filed
23 within 2 years after the date on which the amended insurance
24 premium tax return was due, regardless of whether such notice
25 was given, notwithstanding any other provision of s. 215.26.
26 However, the amount recoverable pursuant to such a claim shall
27 be limited to the amount of any overpayment resulting under
28 this code from recomputation of the taxpayer's insurance
29 premium tax and retaliatory tax for the taxable year after
30 giving effect only to the change in corporate income tax paid
31 and the change in the amount of the workers' compensation

Bill No. HB 1813

Barcode 635506

1 administrative assessment paid.

2 Section 26. Subsection (5) of section 624.509, Florida
3 Statutes, is amended to read:

4 624.509 Premium tax; rate and computation.--

5 (5)

6 (a)1. There shall be allowed a credit against the net
7 tax imposed by this section equal to 15 percent of the amount
8 paid by an ~~the~~ insurer in salaries to employees located or
9 based within this state and who are covered by the provisions
10 of chapter 443.

11 2. As an alternative to the credit allowed in
12 subparagraph 1., an affiliated group of corporations which
13 includes at least one insurance company writing premiums in
14 Florida may elect to take a credit against the net tax imposed
15 by this section in an amount that may not exceed 15 percent of
16 the salary of the employees of the affiliated group of
17 corporations who perform insurance-related activities, are
18 located or based within this state, and are covered by chapter
19 443. For purposes of this subparagraph, the term "affiliated
20 group of corporations" means two or more corporations that are
21 entirely owned directly or indirectly by a single corporation
22 and that constitute an affiliated group as defined in s.
23 1504(a) of the Internal Revenue Code. The amount of credit
24 allowed under this subparagraph is limited to the combined
25 Florida salary tax credits allowed for all insurance companies
26 that were members of the affiliated group of corporations for
27 the tax year ending December 31, 2002, divided by the combined
28 Florida taxable premiums written by all insurance companies
29 that were members of the affiliated group of corporations for
30 the tax year ending December 31, 2002, multiplied by the
31 combined Florida taxable premiums of the affiliated group of

Barcode 635506

1 corporations for the current year. An affiliated group of
 2 corporations electing this alternative calculation method must
 3 make such election on or before August 1, 2005. The election
 4 of this alternative calculation method is irrevocable and
 5 binding upon successors and assigns of the affiliated group of
 6 corporations electing this alternative. However, if a member
 7 of an affiliated group of corporations acquires or merges with
 8 another insurance company after the date of the irrevocable
 9 election, the acquired or merged company is not entitled to
 10 the affiliated group election and shall only be entitled to
 11 calculate the tax credit under subparagraph 1.

12
 13 In no event shall the salary paid to an employee by an
 14 affiliated group of corporations be claimed as a credit by
 15 more than one insurer or be counted more than once in an
 16 insurer's calculation of the credit as described in
 17 subparagraph 1. or subparagraph 2. Only the portion of an
 18 employee's salary paid for the performance of
 19 insurance-related activities may be included in the
 20 calculation of the premium tax credit in this subsection.

21 (b) For purposes of this subsection:

22 1.~~(a)~~ The term "salaries" does not include amounts
 23 paid as commissions.

24 2.~~(b)~~ The term "employees" does not include
 25 independent contractors or any person whose duties require
 26 that the person hold a valid license under the Florida
 27 Insurance Code, except adjusters, managing general agents, and
 28 service representatives, as persons defined in s. 626.015 s-
 29 626.015(1), (14), and (16).

30 3.~~(c)~~ The term "net tax" means the tax imposed by this
 31 section after applying the calculations and credits set forth

1 in subsection (4).

2 ~~4.(d)~~ An affiliated group of corporations that created
3 a service company within its affiliated group on July 30,
4 2002, shall allocate the salary of each service company
5 employee covered by contracts with affiliated group members to
6 the companies for which the employees perform services. The
7 salary allocation is based on the amount of time during the
8 tax year that the individual employee spends performing
9 services or otherwise working for each company over the total
10 amount of time the employee spends performing services or
11 otherwise working for all companies. The total amount of
12 salary allocated to an insurance company within the affiliated
13 group shall be included as that insurer's employee salaries
14 for purposes of this section.

15 ~~a.1.~~ Except as provided in subparagraph 2., the term
16 "affiliated group of corporations" means two or more
17 corporations that are entirely owned by a single corporation
18 and that constitute an affiliated group of corporations as
19 defined in s. 1504(a) of the Internal Revenue Code.

20 ~~b.2.~~ The term "service company" means a separate
21 corporation within the affiliated group of corporations whose
22 employees provide services to affiliated group members and
23 which are treated as service company employees for
24 unemployment compensation and common law purposes. The holding
25 company of an affiliated group may not qualify as a service
26 company. An insurance company may not qualify as a service
27 company.

28 ~~c.3.~~ If an insurance company fails to substantiate,
29 whether by means of adequate records or otherwise, its
30 eligibility to claim the service company exception under this
31 section, or its salary allocation under this section, no

Bill No. HB 1813

Barcode 635506

1 credit shall be allowed.

2 5. A service company that is a subsidiary of a mutual
3 insurance holding company, which mutual insurance holding
4 company was in existence on or before January 1, 2000, shall
5 allocate the salary of each service company employee covered
6 by contracts with members of the mutual insurance holding
7 company system to the companies for which the employees
8 perform services. The salary allocation is based on the ratio
9 of the amount of time during the tax year which the individual
10 employee spends performing services or otherwise working for
11 each company to the total amount of time the employee spends
12 performing services or otherwise working for all companies.
13 The total amount of salary allocated to an insurance company
14 within the mutual insurance holding company system shall be
15 included as that insurer's employee salaries for purposes of
16 this section. However, this subparagraph does not apply for
17 any tax year unless funds sufficient to offset the anticipated
18 salary credits have been appropriated to the General Revenue
19 Fund prior to the due date of the final return for that year.

20 a. The term "mutual insurance holding company system"
21 means two or more corporations that are subsidiaries of a
22 mutual insurance holding company and in compliance with part
23 IV of chapter 628.

24 b. The term "service company" means a separate
25 corporation within the mutual insurance holding company system
26 whose employees provide services to other members of the
27 mutual insurance holding company system and are treated as
28 service company employees for unemployment compensation and
29 common-law purposes. The mutual insurance holding company may
30 not qualify as a service company.

31 c. If an insurance company fails to substantiate,

Bill No. HB 1813

Barcode 635506

1 whether by means of adequate records or otherwise, its
2 eligibility to claim the service company exception under this
3 section, or its salary allocation under this section, no
4 credit shall be allowed.

5 (c) The department may adopt rules pursuant to ss.
6 120.536(1) and 120.54 to administer this subsection.

7 Section 27. The sum of \$2.6 million is appropriated
8 from the Workers' Compensation Administration Trust Fund to
9 the General Revenue Fund for the 2005-2006 fiscal year.

10 Section 28. The intent of the revision to section
11 624.509(5)(b), Florida Statutes, in section 25 is to clarify
12 that adjusters, managing general agents, and service
13 representatives, as defined in section 626.015, Florida
14 Statutes, are considered employees for purposes of the salary
15 credit provided in section 626.509, Florida Statutes. The
16 reference in section 624.509, Florida Statutes, to section
17 626.015, Florida Statutes, was never intended to reference the
18 definition of a "resident."

19 Section 29. Notwithstanding section 11 of chapter
20 2000-312, Laws of Florida, section 213.21, Florida Statutes,
21 shall not stand repealed on October 1, 2005, as scheduled by
22 that law, but that section is revived and readopted.

23 Section 30. If a security agreement pledging
24 condominium or homeowner association assessments or fees or
25 club membership dues, fees, or assessments was recorded after
26 April 15, 2000, and before April 10, 2005, with a clerk of the
27 court, and if a Uniform Commercial Code financing statement
28 was filed with the Secretary of State or the Florida Secured
29 Transaction Registry with respect to such security agreement,
30 the excise tax on documents under chapter 201, Florida
31 Statutes, is not due solely as a result of the recording of

Bill No. HB 1813

Barcode 635506

1 the security agreement if an affidavit attesting that the
2 security agreement was recorded in error or by mistake is
3 filed or recorded with the clerk of the court.

4 Section 31. Retroactive to January 1, 2005, section
5 196.1999, Florida Statutes, is created to read:

6 196.1999 Space laboratories and carriers;
7 exemption.--Notwithstanding other provisions of this chapter,
8 a module, pallet, rack, locker, and any necessary associated
9 hardware and subsystem owned by any person and intended to be
10 used to transport or store cargo used for a space laboratory
11 for the primary purpose of conducting scientific research in
12 space is deemed to carry out a scientific purpose and is
13 exempt from ad valorem taxation.

14 Section 32. Section 196.1994, Florida Statutes, is
15 repealed.

16 Section 33. Subsection (4) of section 201.23, Florida
17 Statutes, is amended to read:

18 201.23 Foreign notes and other written obligations
19 exempt.--

20 (4)(a) The excise taxes imposed by this chapter shall
21 not apply to the documents, notes, evidences of indebtedness,
22 financing statements, drafts, bills of exchange, or other
23 taxable items dealt with, made, issued, drawn upon, accepted,
24 delivered, shipped, received, signed, executed, assigned,
25 transferred, or sold by or to a banking organization, ~~as~~
26 ~~defined in s. 199.023(9),~~ in the conduct of an international
27 banking transaction, ~~as defined in s. 199.023(11).~~ Nothing in
28 this subsection shall be construed to change the application
29 of paragraph (2)(a).

30 (b) For purposes of this subsection, the term:

31 1. "Banking organization" means:

Bill No. HB 1813

Barcode 635506

1 a. A bank organized and existing under the laws of any
2 state;

3 b. A national bank organized and existing pursuant to
4 the provisions of the National Bank Act, 12 U.S.C. ss. 21 et
5 seq.;

6 c. An Edge Act corporation organized pursuant to the
7 provisions of s. 25(a) of the Federal Reserve Act, 12 U.S.C.
8 ss. 611 et seq.;

9 d. An international bank agency licensed pursuant to
10 the laws of any state;

11 e. A federal agency licensed pursuant to ss. 4 and 5
12 of the International Banking Act of 1978;

13 f. A savings association organized and existing under
14 the laws of any state;

15 g. A federal association organized and existing
16 pursuant to the provisions of the Home Owners' Loan Act of
17 1933, 12 U.S.C. ss. 1461 et seq.; or

18 h. A Florida export finance corporation organized and
19 existing pursuant to the provisions of part V of chapter 288.

20 2. "International banking transaction" means:

21 a. The financing of the exportation from, or the
22 importation into, the United States or between jurisdictions
23 abroad of tangible personal property or services;

24 b. The financing of the production, preparation,
25 storage, or transportation of tangible personal property or
26 services which are identifiable as being directly and solely
27 for export from, or import into, the United States or between
28 jurisdictions abroad;

29 c. The financing of contracts, projects, or activities
30 to be performed substantially abroad, except those
31 transactions secured by a mortgage, deed of trust, or other

Bill No. HB 1813

Barcode 635506

1 lien upon real property located in the state;

2 d. The receipt of deposits or borrowings or the
3 extensions of credit by an international banking facility,
4 except the loan or deposit of funds secured by mortgage, deed
5 of trust, or other lien upon real property located in the
6 state; or

7 e. Entering into foreign exchange trading or hedging
8 transactions in connection with the activities described in
9 sub-subparagraph d.

10 Section 34. Except as otherwise expressly provided in
11 this act, this act shall take effect July 1, 2005.

12
13

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

15 And the title is amended as follows:

16 Delete everything before the enacting clause

17

18 and insert:

19 A bill to be entitled
20 An act relating to tax administration; amending
21 s. 95.091, F.S.; adding a cross-reference;
22 amending s. 198.32, F.S.; allowing an estate
23 that is not required to file a federal tax
24 return to file with the clerk of the court an
25 affidavit attesting that no Florida estate tax
26 is due, regardless of the decedent's date of
27 death; amending s. 199.135, F.S.; providing
28 special provisions for the imposition of the
29 nonrecurring intangibles tax imposed by this
30 section on the sale of a timeshare interest in
31 a timeshare plan; amending s. 201.02, F.S.;

Bill No. HB 1813

Barcode 635506

1 providing special provisions for the imposition
2 of the tax on deeds or other instruments
3 relating to real property or interests in real
4 property imposed by this section on the sale of
5 a timeshare interest in a timeshare plan;
6 amending s. 201.08, F.S.; providing special
7 provisions for the imposition of the tax on
8 promissory or nonnegotiable notes or written
9 obligations to pay money imposed by this
10 section on the sale of a timeshare interest in
11 a timeshare plan; amending s. 202.11, F.S.;
12 providing an additional definition of the term
13 "service address" for the purposes of the tax
14 on communications services; amending ss.
15 206.09, 206.095, 206.14, and 206.485, F.S.,
16 relating to fuel taxes; providing for the
17 distribution of penalties; amending s. 206.27,
18 F.S.; allowing the Department of Revenue the
19 option of posting the list of active and
20 canceled fuel licenses on the departmental web
21 site or mailing it to licensees; amending s.
22 212.0305, F.S.; permitting golf courses to be
23 built with the proceeds of a charter county
24 convention development tax; amending s. 212.05,
25 F.S.; clarifying the tax treatment of
26 nonresident purchasers of aircraft; amending s.
27 212.06, F.S.; clarifying that sales tax is not
28 due on any vessel imported into this state for
29 the sole purpose of being offered for retail
30 sale by a registered Florida yacht broker or
31 dealer under certain conditions; amending s.

Bill No. HB 1813

Barcode 635506

1 212.11, F.S.; correcting a cross-reference;
2 amending s. 212.12, F.S.; including in the
3 definition of tax fraud willful attempts to
4 evade a tax, surcharge, or fee imposed by
5 chapter 212, F.S.; amending s. 213.053, F.S.;
6 authorizing expanded sharing of confidential
7 information between the Department of Revenue
8 and the Department of Agriculture and Consumer
9 Services for the Bill of Lading Program;
10 amending s. 213.21, F.S.; specifying which
11 taxes qualify for the automatic penalty
12 compromise or settlement of liability;
13 providing for retroactivity; amending s.
14 213.27, F.S.; clarifying that the notification
15 by the Department of Revenue to the taxpayer
16 that the taxpayer's account is being referred
17 to a debt collection agency must be at least 30
18 days before the referral; amending s. 215.26,
19 F.S.; adding a cross-reference; amending s.
20 252.372, F.S.; authorizing the Florida Surplus
21 Lines Service Office to collect the Emergency
22 Management, Preparedness, and Assistance Trust
23 Fund surcharge and deposit the proceeds into
24 the trust fund; amending s. 443.131, F.S.;
25 requiring employers who transfer their business
26 to a related entity to retain their
27 unemployment experience history under certain
28 circumstances; providing penalties; amending s.
29 443.141, F.S.; authorizing the Department of
30 Revenue to send to employers by regular mail
31 notices of unemployment tax assessments and

Bill No. HB 1813

Barcode 635506

1 notices of the filing of liens; creating s.
2 624.50921, F.S.; creating a statute of
3 limitations for assessments of the insurance
4 premium tax if the amount of corporate income
5 tax or a workers' compensation administrative
6 assessment paid by the insurer is adjusted
7 through an amended return or refund; amending
8 s. 624.509, F.S.; providing for an alternative
9 method of calculating a tax credit against the
10 insurance premium tax for certain groups of
11 affiliated corporations; clarifying the
12 definition of the term "employees" for purposes
13 of calculating such a credit; allowing a salary
14 credit for employees of a service company
15 subsidiary of a mutual insurance holding
16 company; providing an exception; authorizing
17 the department to adopt rules to administer
18 such a credit; providing an appropriation;
19 providing legislative intent regarding the
20 meaning of the term "employees" for purposes of
21 determining the salary credit against the
22 insurance premium tax; reviving and readopting
23 s. 213.21, F.S., relating to informal
24 conference procedures within the Department of
25 Revenue; exempting from the documentary stamp
26 tax certain security agreements recorded in
27 error or by mistake; creating s. 196.1999,
28 F.S.; providing retroactivity; providing an
29 exemption from ad valorem taxes for certain
30 space laboratories; repealing s. 196.1994,
31 F.S., which expired effective July 1, 2004, and

Bill No. HB 1813

Barcode 635506

1 which provided an exemption from ad valorem
2 taxes for certain space laboratories; amending
3 s. 201.23, F.S.; defining the terms "banking
4 organization" and "international banking
5 transaction," relating to exemption from
6 certain excise taxes; providing effective
7 dates.

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