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 HB 1813, Engrossed 1

2005 Legislature

1 A bill to be entitled
 2 An act relating to tax administration; amending s. 95.091,
 3 F.S.; adding a cross-reference; amending s. 198.32, F.S.;
 4 allowing an estate that is not required to file a federal
 5 tax return to file with the clerk of the court an
 6 affidavit attesting that no Florida estate tax is due,
 7 regardless of the decedent's date of death; amending s.
 8 199.135, F.S.; providing special provisions for the
 9 imposition of the nonrecurring intangibles tax imposed by
 10 this section on the sale of a timeshare interest in a
 11 timeshare plan; amending s. 201.02, F.S.; providing
 12 special provisions for the imposition of the tax on deeds
 13 or other instruments relating to real property or
 14 interests in real property imposed by this section on the
 15 sale of a timeshare interest in a timeshare plan; amending
 16 s. 201.08, F.S.; providing special provisions for the
 17 imposition of the tax on promissory or nonnegotiable notes
 18 or written obligations to pay money imposed by this
 19 section on the sale of a timeshare interest in a timeshare
 20 plan; amending s. 202.11, F.S.; providing an additional
 21 definition of the term "service address" for the purposes
 22 of the tax on communications services; amending ss.
 23 206.09, 206.095, 206.14, and 206.485, F.S., relating to
 24 fuel taxes; providing for the distribution of penalties;
 25 amending s. 206.27, F.S.; allowing the Department of
 26 Revenue the option of posting the list of active and
 27 canceled fuel licenses on the departmental web site or
 28 mailing it to licensees; amending s. 212.0305, F.S.;

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29 | permitting golf courses to be built with the proceeds of a
30 | charter county convention development tax; amending s.
31 | 212.05, F.S.; clarifying the tax treatment of nonresident
32 | purchasers of aircraft; amending s. 212.06, F.S.;
33 | clarifying that sales tax is not due on any vessel
34 | imported into this state for the sole purpose of being
35 | offered for retail sale by a registered Florida yacht
36 | broker or dealer under certain conditions; amending s.
37 | 212.11, F.S.; correcting a cross-reference; amending s.
38 | 212.12, F.S.; including in the definition of tax fraud
39 | willful attempts to evade a tax, surcharge, or fee imposed
40 | by chapter 212, F.S.; amending s. 213.053, F.S.;
41 | authorizing expanded sharing of confidential information
42 | between the Department of Revenue and the Department of
43 | Agriculture and Consumer Services for the Bill of Lading
44 | Program; amending s. 213.21, F.S.; specifying which taxes
45 | qualify for the automatic penalty compromise or settlement
46 | of liability; providing for retroactivity; amending s.
47 | 213.27, F.S.; clarifying that the notification by the
48 | Department of Revenue to the taxpayer that the taxpayer's
49 | account is being referred to a debt collection agency must
50 | be at least 30 days before the referral; amending s.
51 | 215.26, F.S.; adding a cross-reference; amending s.
52 | 252.372, F.S.; authorizing the Florida Surplus Lines
53 | Service Office to collect the Emergency Management,
54 | Preparedness, and Assistance Trust Fund surcharge and
55 | deposit the proceeds into the trust fund; amending s.
56 | 443.131, F.S.; requiring employers who transfer their

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57 | business to a related entity to retain their unemployment
58 | experience history under certain circumstances; providing
59 | penalties; amending s. 443.141, F.S.; authorizing the
60 | Department of Revenue to send to employers by regular mail
61 | notices of unemployment tax assessments and notices of the
62 | filing of liens; creating s. 624.50921, F.S.; creating a
63 | statute of limitations for assessments of the insurance
64 | premium tax if the amount of corporate income tax or a
65 | workers' compensation administrative assessment paid by
66 | the insurer is adjusted through an amended return or
67 | refund; amending s. 624.509, F.S.; providing for an
68 | alternative method of calculating a tax credit against the
69 | insurance premium tax for certain groups of affiliated
70 | corporations; clarifying the definition of the term
71 | "employees" for purposes of calculating such a credit;
72 | allowing a salary credit for employees of a service
73 | company subsidiary of a mutual insurance holding company;
74 | providing an exception; authorizing the department to
75 | adopt rules to administer such a credit; amending s.
76 | 624.5091, F.S., increasing the amount of tax credits
77 | excluded from calculation of insurance retaliatory taxes;
78 | providing an appropriation; providing legislative intent
79 | regarding the meaning of the term "employees" for purposes
80 | of determining the salary credit against the insurance
81 | premium tax; reviving and readopting s. 213.21, F.S.,
82 | relating to informal conference procedures within the
83 | Department of Revenue; exempting from the documentary
84 | stamp tax certain security agreements recorded in error or

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85 by mistake; creating s. 196.1999, F.S.; providing
 86 retroactivity; providing an exemption from ad valorem
 87 taxes for certain space laboratories; repealing s.
 88 196.1994, F.S., which expired effective July 1, 2004, and
 89 which provided an exemption from ad valorem taxes for
 90 certain space laboratories; amending s. 201.23, F.S.;
 91 defining the terms "banking organization" and
 92 "international banking transaction," relating to exemption
 93 from certain excise taxes; providing effective dates.
 94

95 Be It Enacted by the Legislature of the State of Florida:
 96

97 Section 1. Paragraph (a) of subsection (3) of section
 98 95.091, Florida Statutes, is amended to read:

99 95.091 Limitation on actions to collect taxes.--

100 (3) (a) With the exception of taxes levied under chapter
 101 198 and tax adjustments made pursuant to ss. ~~s.~~ 220.23 and
 102 624.50921, the Department of Revenue may determine and assess
 103 the amount of any tax, penalty, or interest due under any tax
 104 enumerated in s. 72.011 which it has authority to administer and
 105 the Department of Business and Professional Regulation may
 106 determine and assess the amount of any tax, penalty, or interest
 107 due under any tax enumerated in s. 72.011 which it has authority
 108 to administer:

109 1.a. For taxes due before July 1, 1999, within 5 years
 110 after the date the tax is due, any return with respect to the
 111 tax is due, or such return is filed, whichever occurs later; and
 112 for taxes due on or after July 1, 1999, within 3 years after the

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113 date the tax is due, any return with respect to the tax is due,
 114 or such return is filed, whichever occurs later;

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

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

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

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

126 5. At any time after the taxpayer has failed to make any
 127 required payment of the tax, has failed to file a required
 128 return, or has filed a fraudulent return, except that for taxes
 129 due on or after July 1, 1999, the limitation prescribed in
 130 subparagraph 1. applies if the taxpayer has disclosed in writing
 131 the tax liability to the department before the department has
 132 contacted the taxpayer; or

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

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

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

139
 140 or at any time after making such refund if it appears that any

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141 part of the refund was induced by fraud or the misrepresentation
142 of a material fact.

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

145 198.32 Prima facie liability for tax.--

146 (2) Whenever an estate is not subject to tax under this
147 chapter and is not required to file a return, the personal
148 representative may execute an affidavit attesting that the
149 estate is not taxable. The form of the affidavit shall be
150 prescribed by the department, and shall include, but not be
151 limited to, statements regarding the decedent's domicile and
152 whether a federal estate tax return will be filed, and
153 acknowledgment of the personal representative's personal
154 liability under s. 198.23. This affidavit shall be subject to
155 record and admissible in evidence to show nonliability for tax.
156 This subsection applies to all estates, regardless of the date
157 of death of the decedent.

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

160 199.135 Due date and payment of nonrecurring tax.--The
161 nonrecurring tax imposed on notes, bonds, and other obligations
162 for payment of money secured by a mortgage, deed of trust, or
163 other lien evidenced by a written instrument presented for
164 recordation shall be due and payable when the instrument is
165 presented for recordation. If there is no written instrument or
166 if it is not so presented within 30 days following creation of
167 the obligation, then the tax shall be due and payable within 30
168 days following creation of the obligation.

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169 (5) (a) In recognition of the special escrow requirements
170 that apply to sales of timeshare interests in timeshare plans
171 pursuant to s. 721.08, tax on notes or other obligations secured
172 by a mortgage, deed of trust, or other lien upon real property
173 situated in this state executed in conjunction with the sale by
174 a developer of a timeshare interest in a timeshare plan is due
175 and payable on the earlier of the date on which:

176 1. The mortgage, deed of trust, or other lien is recorded;
177 or

178 2. All of the conditions precedent to the release of the
179 purchaser's escrowed funds or other property pursuant to s.
180 721.08(2)(c) have been met, regardless of whether the developer
181 has posted an alternative assurance. Tax due under this
182 subparagraph is due and payable on or before the 20th day of the
183 month following the month in which these conditions were met.

184 (b)1. If tax has been paid to the department under
185 subparagraph (a)2., and the note, other written obligation,
186 mortgage, deed of trust, or other lien with respect to which the
187 tax was paid is subsequently recorded, a notation reflecting
188 the prior payment of the tax must be made upon the mortgage or
189 other lien.

190 2. Notwithstanding paragraph (a), if funds are designated
191 on a closing statement as tax collected from the purchaser, but
192 the mortgage, deed of trust, or other lien with respect to which
193 the tax was collected has not been recorded or filed in this
194 state, the tax must be paid to the department on or before the
195 20th day of the month following the month in which the funds are
196 available for release from escrow, unless the funds have been

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197 refunded to the purchaser.

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

200 Section 4. Subsection (10) is added to section 201.02,
 201 Florida Statutes, to read:

202 201.02 Tax on deeds and other instruments relating to real
 203 property or interests in real property.--

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

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

213 2. All of the conditions precedent to the release of the
 214 purchaser's escrowed funds or other property pursuant to s.
 215 721.08(2)(c) have been met, regardless of whether the developer
 216 has posted an alternative assurance. Tax due pursuant to this
 217 subparagraph is due and payable on or before the 20th day of the
 218 month following the month in which these conditions were met.

219 (b)1. If tax has been paid to the department pursuant to
 220 subparagraph (a)2., and the deed or other instrument conveying
 221 the interest in Florida real property with respect to which the
 222 tax was paid is subsequently recorded, a notation reflecting the
 223 prior payment of the tax must be made upon the deed or other
 224 instrument conveying the interest in Florida real property.

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225 2. Notwithstanding paragraph (a), if funds are designated
 226 on a closing statement as tax collected from the purchaser, but
 227 a default or cancellation occurs pursuant to s. 721.08(2)(a) or
 228 s. 721.08(2)(b) and no deed or other instrument conveying
 229 interest in Florida real property has been recorded or delivered
 230 to the purchaser, the tax must be paid to the department on or
 231 before the 20th day of the month following the month in which
 232 the funds are available for release from escrow unless the funds
 233 have been refunded to the purchaser.

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

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

238 201.08 Tax on promissory or nonnegotiable notes, written
 239 obligations to pay money, or assignments of wages or other
 240 compensation; exception.--

241 (8)(a) In recognition of the special escrow requirements
 242 that apply to sales of timeshare interests in timeshare plans
 243 pursuant to s. 721.08, tax on notes or other written obligations
 244 and mortgages or other evidences of indebtedness executed in
 245 conjunction with the sale by a developer of a timeshare interest
 246 in a timeshare plan is due and payable on the earlier of the
 247 date on which:

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

250 2. All of the conditions precedent to the release of the
 251 purchaser's escrowed funds or other property pursuant to s.
 252 721.08(2)(c) have been met, regardless of whether the developer

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253 has posted an alternative assurance. Tax due under this
 254 subparagraph is due and payable on or before the 20th day of the
 255 month following the month in which these conditions were met.

256 (b)1. If tax has been paid to the department pursuant to
 257 subparagraph (a)2., and the note, other written obligation,
 258 mortgage, or other evidence of indebtedness with respect to
 259 which the tax was paid is subsequently recorded or filed in this
 260 state, a notation reflecting the prior payment of the tax must
 261 be made upon the note, other written obligation, mortgage, or
 262 other evidence of indebtedness recorded or filed in this state.

263 2. Notwithstanding paragraph (a), if funds are designated
 264 on a closing statement as tax collected from the purchaser, but
 265 the note, other written obligation, mortgage, or other evidence
 266 of indebtedness with respect to which the tax was collected has
 267 not been recorded or filed in this state, the tax shall be paid
 268 to the department on or before the 20th day of the month
 269 following the month in which the funds are available for release
 270 from escrow, unless the funds have been refunded to the
 271 purchaser.

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

274 Section 6. Paragraph (a) of subsection (15) of section
 275 202.11, Florida Statutes, is amended to read:

276 202.11 Definitions.--As used in this chapter:

277 (15) "Service address" means:

278 (a) Except as otherwise provided in this section:7

279 1. The location of the communications equipment from which
 280 communications services originate or at which communications

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281 services are received by the customer;~~;~~

282 2. In the case of a communications service paid through a
 283 credit or payment mechanism that does not relate to a service
 284 address, such as a bank, travel, debit, or credit card, and in
 285 the case of third-number and calling-card calls, the term
 286 "service address" means ~~is~~ the address of the central office, as
 287 determined by the area code and the first three digits of the
 288 seven-digit originating telephone number; ~~or~~

289 3. If the location of the equipment described in
 290 subparagraph 1. is not known and subparagraph 2. is
 291 inapplicable, the term "service address" means the location of
 292 the customer's primary use of the communications service. For
 293 the purposes of this subparagraph, the location of the
 294 customer's primary use of a communications service is the
 295 residential street address or the business street address of the
 296 customer.

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

299 206.09 Reports from carriers transporting motor fuel or
 300 similar products.--

301 (6) All moneys derived from the penalties imposed by this
 302 section shall be deposited into the Fuel Tax Collection Trust
 303 Fund, and allocated in the same manner as provided by s.
 304 206.875.

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

307 206.095 Reports from terminal operators.--

308 (4) All moneys derived from the penalties imposed by this

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309 section shall be deposited into the Fuel Tax Collection Trust
 310 Fund, and allocated in the same manner as provided by s.
 311 206.875.

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

314 206.14 Inspection of records; audits; hearings; forms;
 315 rules and regulations.--

316 (6) All moneys derived from the penalties imposed by this
 317 section shall be deposited into the Fuel Tax Collection Trust
 318 Fund, and allocated in the same manner as provided by s.
 319 206.875.

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

322 206.27 Records and files as public records.--

323 (1) The records and files in the office of the department
 324 appertaining to parts I and II of this chapter shall be
 325 available in Tallahassee to the public at any time during
 326 business hours. The department shall prepare and make available
 327 a list each month of all current licensed terminal suppliers,
 328 importers, exporters, and wholesalers which also shall include
 329 all new licenses issued and all licenses canceled during the
 330 past 12 months, ~~and mail a copy thereof to each licensee.~~ Such
 331 list shall be used to verify license numbers of purchasers
 332 issuing exemption certificates or affidavits.

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

335 206.485 Tracking system reporting requirements.--

336 (3) All moneys derived from the penalties imposed by this

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337 section shall be deposited into the Fuel Tax Collection Trust
 338 Fund, and allocated in the same manner as provided by s.
 339 206.875.

340 Section 12. Paragraph (b) of subsection (4) of section
 341 212.0305, Florida Statutes, is amended to read:

342 212.0305 Convention development taxes; intent;
 343 administration; authorization; use of proceeds.--

344 (4) AUTHORIZATION TO LEVY; USE OF PROCEEDS; OTHER
 345 REQUIREMENTS.--

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

347 1. Each county, as defined in s. 125.011(1), may impose,
 348 under pursuant to an ordinance enacted by the governing body of
 349 the county, a levy on the exercise within its boundaries of the
 350 taxable privilege of leasing or letting transient rental
 351 accommodations described in subsection (3) at the rate of 3
 352 percent of the total consideration charged therefor. The
 353 proceeds of this levy shall be known as the charter county
 354 convention development tax.

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

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

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

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365 c. After the completion of any project under sub-
 366 subparagraph a., the tax revenues and interest accrued under
 367 sub-subparagraph a. may be used to acquire, construct, extend,
 368 enlarge, remodel, repair, improve, plan for, operate, manage, or
 369 maintain one or more convention centers, stadiums, exhibition
 370 halls, arenas, coliseums, ~~or~~ auditoriums, or golf courses, and
 371 may be used to acquire and construct an intercity light rail
 372 transportation system as described in the Light Rail Transit
 373 System Status Report to the Legislature dated April 1988, which
 374 shall provide a means to transport persons to and from the
 375 largest existing publicly owned convention center in the county
 376 and the hotels north of the convention center and to and from
 377 the downtown area of the most populous municipality in the
 378 county as determined by the county.

379 d. After completion of any project under sub-subparagraph
 380 b., the tax revenues and interest accrued under sub-subparagraph
 381 b. may be used, as determined by the county, to operate an
 382 authority created pursuant to subparagraph 4. or to acquire,
 383 construct, extend, enlarge, remodel, repair, improve, operate,
 384 or maintain one or more convention centers, stadiums, exhibition
 385 halls, arenas, coliseums, auditoriums, golf courses, or related
 386 buildings and parking facilities in the most populous
 387 municipality in the county.

388 e. For the purposes of completion of any project pursuant
 389 to this paragraph, tax revenues and interest accrued may be
 390 used:

391 (I) As collateral, pledged, or hypothecated for projects
 392 authorized by this paragraph, including bonds issued in

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393 connection therewith; or

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

398 3. The governing body of each municipality in which a
399 municipal tourist tax is levied may adopt a resolution
400 prohibiting imposition of the charter county convention
401 development levy within such municipality. If the governing body
402 adopts such a resolution, the convention development levy shall
403 be imposed by the county in all other areas of the county except
404 such municipality. No funds collected pursuant to this paragraph
405 may be expended in a municipality which has adopted such a
406 resolution.

407 4.a. Before the county enacts an ordinance imposing the
408 levy, the county shall notify the governing body of each
409 municipality in which projects are to be developed pursuant to
410 sub-subparagraph 2.a., sub-subparagraph 2.b., sub-subparagraph
411 2.c., or sub-subparagraph 2.d. As a condition precedent to
412 receiving funding, the governing bodies of such municipalities
413 shall designate or appoint an authority that shall have the sole
414 power to:

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

419 (II) Appoint and dismiss the authority's executive
420 director, general counsel, and any other consultants retained by

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421 the authority. The governing body shall have the right to
 422 approve or disapprove the initial appointment of the authority's
 423 executive director and general counsel.

424 b. The members of each such authority shall serve for a
 425 term of not less than 1 year and shall be appointed by the
 426 governing body of such municipality. The annual budget of such
 427 authority shall be subject to approval of the governing body of
 428 the municipality. If the governing body does not approve the
 429 budget, the authority shall use as the authority's budget the
 430 previous fiscal year budget.

431 c. The authority, by resolution to be adopted from time to
 432 time, may invest and reinvest the proceeds from the convention
 433 development tax and any other revenues generated by the
 434 authority in the same manner that the municipality in which the
 435 authority is located may invest surplus funds.

436 5. The charter county convention development levy shall be
 437 in addition to any other levy imposed pursuant to this section.

438 6. A certified copy of the ordinance imposing the levy
 439 shall be furnished by the county to the department within 10
 440 days after approval of such ordinance. The effective date of
 441 imposition of the levy shall be the first day of any month at
 442 least 60 days after enactment of the ordinance.

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

447 Section 13. Paragraph (a) of subsection (1) of section
 448 212.05, Florida Statutes, is amended to read:

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449 212.05 Sales, storage, use tax.--It is hereby declared to
 450 be the legislative intent that every person is exercising a
 451 taxable privilege who engages in the business of selling
 452 tangible personal property at retail in this state, including
 453 the business of making mail order sales, or who rents or
 454 furnishes any of the things or services taxable under this
 455 chapter, or who stores for use or consumption in this state any
 456 item or article of tangible personal property as defined herein
 457 and who leases or rents such property within the state.

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

461 (a)1.

462 a. At the rate of 6 percent of the sales price of each
 463 item or article of tangible personal property when sold at
 464 retail in this state, computed on each taxable sale for the
 465 purpose of remitting the amount of tax due the state, and
 466 including each and every retail sale.

467 b. Each occasional or isolated sale of an aircraft, boat,
 468 mobile home, or motor vehicle of a class or type which is
 469 required to be registered, licensed, titled, or documented in
 470 this state or by the United States Government shall be subject
 471 to tax at the rate provided in this paragraph. The department
 472 shall by rule adopt any nationally recognized publication for
 473 valuation of used motor vehicles as the reference price list for
 474 any used motor vehicle which is required to be licensed pursuant
 475 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
 476 party to an occasional or isolated sale of such a vehicle

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477 reports to the tax collector a sales price which is less than 80
 478 percent of the average loan price for the specified model and
 479 year of such vehicle as listed in the most recent reference
 480 price list, the tax levied under this paragraph shall be
 481 computed by the department on such average loan price unless the
 482 parties to the sale have provided to the tax collector an
 483 affidavit signed by each party, or other substantial proof,
 484 stating the actual sales price. Any party to such sale who
 485 reports a sales price less than the actual sales price is guilty
 486 of a misdemeanor of the first degree, punishable as provided in
 487 s. 775.082 or s. 775.083. The department shall collect or
 488 attempt to collect from such party any delinquent sales taxes.
 489 In addition, such party shall pay any tax due and any penalty
 490 and interest assessed plus a penalty equal to twice the amount
 491 of the additional tax owed. Notwithstanding any other provision
 492 of law, the Department of Revenue may waive or compromise any
 493 penalty imposed pursuant to this subparagraph.

494 2. This paragraph does not apply to the sale of a boat or
 495 aircraft ~~airplane~~ by or through a registered dealer under this
 496 chapter to a purchaser who, at the time of taking delivery, is a
 497 nonresident of this state, does not make his or her permanent
 498 place of abode in this state, and is not engaged in carrying on
 499 in this state any employment, trade, business, or profession in
 500 which the boat or aircraft will be used in this state, or is a
 501 corporation none of the officers or directors of which is a
 502 resident of, or makes his or her permanent place of abode in,
 503 this state, or is a noncorporate entity that has no individual
 504 vested with authority to participate in the management,

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505 direction, or control of the entity's affairs who is a resident
 506 of, or makes his or her permanent abode in, this state. For
 507 purposes of this exemption, either a registered dealer acting on
 508 his or her own behalf as seller, a registered dealer acting as
 509 broker on behalf of a seller, or a registered dealer acting as
 510 broker on behalf of the purchaser may be deemed to be the
 511 selling dealer. This exemption shall not be allowed unless:

512 a. The purchaser removes a qualifying boat, as described
 513 in sub-subparagraph f., from the state within 90 days after the
 514 date of purchase or the purchaser removes a nonqualifying boat
 515 or an aircraft airplane from this state within 10 days after the
 516 date of purchase or, when the boat or aircraft airplane is
 517 repaired or altered, within 20 days after completion of the
 518 repairs or alterations;

519 b. The purchaser, within 30 days from the date of
 520 departure, shall provide the department with written proof that
 521 the purchaser licensed, registered, titled, or documented the
 522 boat or aircraft airplane outside the state. If such written
 523 proof is unavailable, within 30 days the purchaser shall provide
 524 proof that the purchaser applied for such license, title,
 525 registration, or documentation. The purchaser shall forward to
 526 the department proof of title, license, registration, or
 527 documentation upon receipt.

528 c. The purchaser, within 10 days of removing the boat or
 529 aircraft airplane from Florida, shall furnish the department
 530 with proof of removal in the form of receipts for fuel, dockage,
 531 slippage, tie-down, or hangaring from outside of Florida. The
 532 information so provided must clearly and specifically identify

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533 the boat or aircraft;

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

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

541 f. Unless the nonresident purchaser of a boat of 5 net
542 tons of admeasurement or larger intends to remove the boat from
543 this state within 10 days after the date of purchase or when the
544 boat is repaired or altered, within 20 days after completion of
545 the repairs or alterations, the nonresident purchaser shall
546 apply to the selling dealer for a decal which authorizes 90 days
547 after the date of purchase for removal of the boat. The
548 department is authorized to issue decals in advance to dealers.
549 The number of decals issued in advance to a dealer shall be
550 consistent with the volume of the dealer's past sales of boats
551 which qualify under this sub-subparagraph. The selling dealer
552 or his or her agent shall mark and affix the decals to
553 qualifying boats in the manner prescribed by the department,
554 prior to delivery of the boat.

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

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

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

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

562 (IV) The department is authorized to require dealers who
 563 purchase decals to file reports with the department and may
 564 prescribe all necessary records by rule. All such records are
 565 subject to inspection by the department.

566 (V) Any dealer or his or her agent who issues a decal
 567 falsely, fails to affix a decal, mismarks the expiration date of
 568 a decal, or fails to properly account for decals will be
 569 considered prima facie to have committed a fraudulent act to
 570 evade the tax and will be liable for payment of the tax plus a
 571 mandatory penalty of 200 percent of the tax, and shall be liable
 572 for fine and punishment as provided by law for a conviction of a
 573 misdemeanor of the first degree, as provided in s. 775.082 or s.
 574 775.083.

575 (VI) Any nonresident purchaser of a boat who removes a
 576 decal prior to permanently removing the boat from the state, or
 577 defaces, changes, modifies, or alters a decal in a manner
 578 affecting its expiration date prior to its expiration, or who
 579 causes or allows the same to be done by another, will be
 580 considered prima facie to have committed a fraudulent act to
 581 evade the tax and will be liable for payment of the tax plus a
 582 mandatory penalty of 200 percent of the tax, and shall be liable
 583 for fine and punishment as provided by law for a conviction of a
 584 misdemeanor of the first degree, as provided in s. 775.082 or s.
 585 775.083.

586 (VII) The department is authorized to adopt rules
 587 necessary to administer and enforce this subparagraph and to
 588 publish the necessary forms and instructions.

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

592
 593 If the purchaser fails to remove the qualifying boat from this
 594 state within 90 days after purchase or a nonqualifying boat or
 595 an aircraft airplane from this state within 10 days after
 596 purchase or, when the boat or aircraft airplane is repaired or
 597 altered, within 20 days after completion of such repairs or
 598 alterations, or permits the boat or aircraft airplane to return
 599 to this state within 6 months from the date of departure, or if
 600 the purchaser fails to furnish the department with any of the
 601 documentation required by this subparagraph within the
 602 prescribed time period, the purchaser shall be liable for use
 603 tax on the cost price of the boat or aircraft airplane and, in
 604 addition thereto, payment of a penalty to the Department of
 605 Revenue equal to the tax payable. This penalty shall be in lieu
 606 of the penalty imposed by s. 212.12(2) and is mandatory and
 607 shall not be waived by the department. The 90-day period
 608 following the sale of a qualifying boat tax exempt to a
 609 nonresident may not be tolled for any reason. Notwithstanding
 610 other provisions of this paragraph to the contrary, an aircraft
 611 purchased in this state under the provisions of this paragraph
 612 may be returned to this state for repairs within 6 months after
 613 the date of its departure without being in violation of the law
 614 and without incurring liability for the payment of tax or
 615 penalty on the purchase price of the aircraft if the aircraft is
 616 removed from this state within 20 days after the completion of

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617 | the repairs and if such removal can be demonstrated by invoices
 618 | for fuel, tie-down, hangar charges issued by out-of-state
 619 | vendors or suppliers, or similar documentation.

620 | Section 14. Paragraph (e) of subsection (1) of section
 621 | 212.06, Florida Statutes, is amended to read:

622 | 212.06 Sales, storage, use tax; collectible from dealers;
 623 | "dealer" defined; dealers to collect from purchasers;
 624 | legislative intent as to scope of tax.--

625 | (1)

626 | (e)1. Notwithstanding any other provision of this chapter,
 627 | tax shall not be imposed on any vessel registered under ~~pursuant~~
 628 | ~~to~~ s. 328.52 by a vessel dealer or vessel manufacturer with
 629 | respect to a vessel used solely for demonstration, sales
 630 | promotional, or testing purposes. The term "promotional
 631 | purposes" shall include, but not be limited to, participation in
 632 | fishing tournaments. For the purposes of this paragraph,
 633 | "promotional purposes" means the entry of the vessel in a
 634 | marine-related event where prospective purchasers would be in
 635 | attendance, where the vessel is entered in the name of the
 636 | dealer or manufacturer, and where the vessel is clearly marked
 637 | as for sale, on which vessel the name of the dealer or
 638 | manufacturer is clearly displayed, and which vessel has never
 639 | been transferred into the dealer's or manufacturer's accounting
 640 | books from an inventory item to a capital asset for depreciation
 641 | purposes.

642 | 2. The provisions of this paragraph do not apply to any
 643 | vessel when used for transporting persons or goods for
 644 | compensation; when offered, let, or rented to another for

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645 consideration; when offered for rent or hire as a means of
 646 transportation for compensation; or when offered or used to
 647 provide transportation for persons solicited through personal
 648 contact or through advertisement on a "share expense" basis.

649 3. Notwithstanding any other provision of this chapter,
 650 tax may not be imposed on any vessel imported into this state
 651 for the sole purpose of being offered for sale at retail by a
 652 yacht broker or yacht dealer registered in this state if the
 653 vessel remains under the care, custody, and control of the
 654 registered broker or dealer and the owner of the vessel does not
 655 make personal use of the vessel during that time. The provisions
 656 of this chapter govern the taxability of any sale or use of the
 657 vessel subsequent to its importation under this provision.

658 Section 15. Paragraph (e) of subsection (4) of section
 659 212.11, Florida Statutes, is amended to read:

660 212.11 Tax returns and regulations.--

661 (4)

662 (e) The penalty provisions of this chapter, except s.
 663 212.12(2)(f) ~~s. 212.12(2)(e)~~, apply to the provisions of this
 664 subsection.

665 Section 16. Present paragraph (e) of subsection (2) of
 666 section 212.12, Florida Statutes, is redesignated as paragraph
 667 (f), present paragraph (f) of that subsection is redesignated as
 668 paragraph (g) and amended, and a new paragraph (e) is added to
 669 that subsection, to read:

670 212.12 Dealer's credit for collecting tax; penalties for
 671 noncompliance; powers of Department of Revenue in dealing with
 672 delinquents; brackets applicable to taxable transactions;

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673 records required.--

674 (2)

675 (e) A person who willfully attempts in any manner to evade
 676 any tax, surcharge, or fee imposed under this chapter or the
 677 payment thereof is, in addition to any other penalties provided
 678 by law, liable for a specific penalty in the amount of 100
 679 percent of the tax, surcharge, or fee, and commits a felony of
 680 the third degree, punishable as provided in s. 775.082, s.
 681 775.083, or s. 775.084.

682 (g)~~(f)~~ A dealer who files ~~Dealers filing~~ a consolidated
 683 return pursuant to s. 212.11(1)(e) is ~~shall be~~ subject to the
 684 penalty established in paragraph (e) unless the dealer has paid
 685 the required estimated tax for his or her consolidated return as
 686 a whole without regard to each location. If the dealer fails to
 687 pay the required estimated tax for his or her consolidated
 688 return as a whole, each filing location shall stand on its own
 689 with respect to calculating penalties pursuant to paragraph (f)
 690 ~~(e)~~.

691 Section 17. Paragraph (1) of subsection (7) of section
 692 213.053, Florida Statutes, is amended to read:

693 213.053 Confidentiality and information sharing.--

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

696 (1) Information relative to chapter 212 and the Bill of
 697 Lading Program to the Office of Agriculture Law Enforcement of
 698 the Department of Agriculture and Consumer Services in the
 699 conduct of its official duties ~~the Bill of Lading Program~~. ~~This~~
 700 ~~information is limited to the business name and whether the~~

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701 ~~business is in compliance with chapter 212.~~
 702 Section 18. Subsection (10) of section 213.21, Florida
 703 Statutes, is amended to read:
 704 213.21 Informal conferences; compromises.--
 705 (10) (a) ~~Effective July 1, 2003,~~ Notwithstanding any other
 706 provision of law and solely for the purpose of administering the
 707 taxes tax imposed by ss. 125.0104 and 125.0108, and chapter 212,
 708 except s. 212.0606, under the circumstances set forth in this
 709 subsection, the department shall settle or compromise a
 710 taxpayer's liability for penalty without requiring the taxpayer
 711 to submit a written request for compromise or settlement.
 712 (b) For taxpayers who file returns and remit tax on a
 713 monthly basis:
 714 1. Any penalty related to a noncompliant filing event
 715 shall be settled or compromised if the taxpayer has:
 716 a. No noncompliant filing event in the immediately
 717 preceding 12-month period and no unresolved ~~chapter 212~~
 718 liability under s. 125.0104, s. 125.0108, or chapter 212
 719 resulting from a noncompliant filing event; or
 720 b. One noncompliant filing event in the immediately
 721 preceding 12-month period, resolution of the current
 722 noncompliant filing event through payment of tax and interest
 723 and the filing of a return within 30 days after notification by
 724 the department, and no unresolved ~~chapter 212~~ liability under s.
 725 125.0104, s. 125.0108, or chapter 212 resulting from a
 726 noncompliant filing event.
 727 2. If a taxpayer has two or more noncompliant filing
 728 events in the immediately preceding 12-month period, the

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729 taxpayer shall be liable, absent a showing by the taxpayer that
 730 the noncompliant filing event was due to extraordinary
 731 circumstances, for the penalties provided in s. 125.0104 or s.
 732 125.0108 and s. 212.12, including loss of collection allowance,
 733 and shall be reported to a credit bureau.

734 (c) For taxpayers who file returns and remit tax on a
 735 quarterly basis, any penalty related to a noncompliant filing
 736 event shall be settled or compromised if the taxpayer has no
 737 noncompliant filing event in the immediately preceding 12-month
 738 period and no unresolved ~~chapter 212~~ liability under s.
 739 125.0104, s. 125.0108, or chapter 212 resulting from a
 740 noncompliant filing event.

741 (d) For purposes of this subsection:

742 1. "Noncompliant filing event" means a failure to timely
 743 file a complete and accurate return required under s. 125.0104,
 744 s. 125.0108, or chapter 212 or a failure to timely pay the
 745 amount of tax reported on a return required by s. 125.0104, s.
 746 125.0108, or chapter 212.

747 2. "Extraordinary circumstances" means the occurrence of
 748 events beyond the control of the taxpayer, such as, but not
 749 limited to, the death of the taxpayer, acts of war or terrorism,
 750 natural disasters, fire, or other casualty, or the nonfeasance
 751 or misfeasance of the taxpayer's employees or representatives
 752 responsible for compliance with s. 125.0104, s. 125.0108, or ~~the~~
 753 ~~provisions of~~ chapter 212. With respect to the acts of an
 754 employee or representative, the taxpayer must show that the
 755 principals of the business lacked actual knowledge of the
 756 noncompliance and that the noncompliance was resolved within 30

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757 days after actual knowledge.

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

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

763 213.27 Contracts with debt collection agencies and certain
 764 vendors.--

765 (1) The Department of Revenue may, for the purpose of
 766 collecting any delinquent taxes due from a taxpayer, including
 767 taxes for which a bill or notice has been generated, contract
 768 with any debt collection agency or attorney doing business
 769 within or without this state for the collection of such
 770 delinquent taxes including penalties and interest thereon. The
 771 department may also share confidential information pursuant to
 772 the contract necessary for the collection of delinquent taxes
 773 and taxes for which a billing or notice has been generated.
 774 Contracts will be made pursuant to chapter 287. The taxpayer
 775 must be notified by mail by the department, its employees, or
 776 its authorized representative at least 30 days prior to
 777 commencing any litigation to recover any delinquent taxes. The
 778 taxpayer must be notified by mail by the department at least 30
 779 days prior to the initial assignment by the department of the
 780 taxpayer's account for assigning the collection of any taxes by
 781 ~~to~~ the debt collection agency.

782 (2) The department may enter into contracts with any
 783 individual or business for the purpose of identifying intangible
 784 personal property tax liability. Contracts may provide for the

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785 identification of assets subject to the tax on intangible
 786 personal property, the determination of value of such property,
 787 the requirement for filing a tax return and the collection of
 788 taxes due, including applicable penalties and interest thereon.
 789 The department may share confidential information pursuant to
 790 the contract necessary for the identification of taxable
 791 intangible personal property. Contracts shall be made pursuant
 792 to chapter 287. The taxpayer must be notified by mail by the
 793 department at least 30 days prior to the department assigning
 794 identification of intangible personal property to an individual
 795 or business.

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

798 215.26 Repayment of funds paid into State Treasury through
 799 error.--

800 (2) Application for refunds as provided by this section
 801 must be filed with the Chief Financial Officer, except as
 802 otherwise provided in this subsection, within 3 years after the
 803 right to the refund has accrued or else the right is barred.
 804 Except as provided in chapter 198, ~~and~~ s. 220.23, and s.
 805 624.50921, an application for a refund of a tax enumerated in s.
 806 72.011, which tax was paid after September 30, 1994, and before
 807 July 1, 1999, must be filed with the Chief Financial Officer
 808 within 5 years after the date the tax is paid, and within 3
 809 years after the date the tax was paid for taxes paid on or after
 810 July 1, 1999. The Chief Financial Officer may delegate the
 811 authority to accept an application for refund to any state
 812 agency, or the judicial branch, vested by law with the

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813 responsibility for the collection of any tax, license, or
 814 account due. The application for refund must be on a form
 815 approved by the Chief Financial Officer and must be supplemented
 816 with additional proof the Chief Financial Officer deems
 817 necessary to establish the claim; provided, the claim is not
 818 otherwise barred under the laws of this state. Upon receipt of
 819 an application for refund, the judicial branch or the state
 820 agency to which the funds were paid shall make a determination
 821 of the amount due. If an application for refund is denied, in
 822 whole or in part, the judicial branch or such state agency shall
 823 notify the applicant stating the reasons therefor. Upon approval
 824 of an application for refund, the judicial branch or such state
 825 agency shall furnish the Chief Financial Officer with a properly
 826 executed voucher authorizing payment.

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

830 252.372 Imposition and collection of surcharge.--In order
 831 to provide funds for emergency management, preparedness, and
 832 assistance, an annual surcharge of \$2 per policy shall be
 833 imposed on every homeowner's, mobile home owner's, tenant
 834 homeowner's, and condominium unit owner's policy, and an annual
 835 \$4 surcharge shall be imposed on every commercial fire,
 836 commercial multiple peril, and business owner's property
 837 insurance policy, issued or renewed on or after May 1, 1993. The
 838 surcharge shall be paid by the policyholder to the insurer. The
 839 insurer shall collect the surcharge and remit it to the
 840 Department of Revenue, which shall collect, administer, audit,

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841 and enforce the surcharge pursuant to s. 624.5092. The
 842 surcharge is not to be considered premiums of the insurer;
 843 however, nonpayment of the surcharge by the insured may be a
 844 valid reason for cancellation of the policy. For those policies
 845 in which the surplus lines tax and the service fee are collected
 846 and remitted to the Surplus Lines Service Office, as created
 847 under s. 626.921, the surcharge must be remitted to the service
 848 office at the same time as the surplus lines tax is remitted.
 849 All penalties for failure to remit the surplus lines tax and
 850 service fee are applicable for those surcharges required to be
 851 remitted to the service office. The service office shall deposit
 852 all surcharges that it collects into the Emergency Management,
 853 Preparedness, and Assistance Trust Fund at least monthly. All
 854 proceeds of the surcharge shall be deposited in the Emergency
 855 Management, Preparedness, and Assistance Trust Fund and may not
 856 be used to supplant existing funding.

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

862 443.131 Contributions.--

863 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
 864 EXPERIENCE.--

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

866 1. The tax collection service provider shall assign a
 867 variation from the standard rate of contributions for each
 868 calendar year to each eligible employer. In determining the

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869 contribution rate, varying from the standard rate to be assigned
870 each employer, adjustment factors computed under sub-
871 subparagraphs a.-c. shall be added to the benefit ratio. This
872 addition shall be accomplished in two steps by adding a variable
873 adjustment factor and a final adjustment factor. The sum of
874 these adjustment factors computed under sub-subparagraphs a.-c.
875 shall first be algebraically summed. The sum of these adjustment
876 factors shall next be divided by a gross benefit ratio
877 determined as follows: Total benefit payments for the 3-year
878 period described in subparagraph (b)2. shall be charged to
879 employers eligible for a variation from the standard rate, minus
880 excess payments for the same period, divided by taxable payroll
881 entering into the computation of individual benefit ratios for
882 the calendar year for which the contribution rate is being
883 computed. The ratio of the sum of the adjustment factors
884 computed under sub-subparagraphs a.-c. to the gross benefit
885 ratio shall be multiplied by each individual benefit ratio that
886 is less than the maximum contribution rate to obtain variable
887 adjustment factors; except that in any instance in which the sum
888 of an employer's individual benefit ratio and variable
889 adjustment factor exceeds the maximum contribution rate, the
890 variable adjustment factor shall be reduced in order that the
891 sum equals the maximum contribution rate. The variable
892 adjustment factor for each of these employers is multiplied by
893 his or her taxable payroll entering into the computation of his
894 or her benefit ratio. The sum of these products shall be divided
895 by the taxable payroll of the employers who entered into the
896 computation of their benefit ratios. The resulting ratio shall

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897 be subtracted from the sum of the adjustment factors computed
898 under sub-subparagraphs a.-c. to obtain the final adjustment
899 factor. The variable adjustment factors and the final adjustment
900 factor shall be computed to five decimal places and rounded to
901 the fourth decimal place. This final adjustment factor shall be
902 added to the variable adjustment factor and benefit ratio of
903 each employer to obtain each employer's contribution rate. An
904 employer's contribution rate may not, however, be rounded to
905 less than 0.1 percent.

906 a. An adjustment factor for noncharge benefits shall be
907 computed to the fifth decimal place and rounded to the fourth
908 decimal place by dividing the amount of noncharge benefits
909 during the 3-year period described in subparagraph (b)2. by the
910 taxable payroll of employers eligible for a variation from the
911 standard rate who have a benefit ratio for the current year
912 which is less than the maximum contribution rate. For purposes
913 of computing this adjustment factor, the taxable payroll of
914 these employers is the taxable payrolls for the 3 years ending
915 June 30 of the current calendar year as reported to the tax
916 collection service provider by September 30 of the same calendar
917 year. As used in this sub-subparagraph, the term "noncharge
918 benefits" means benefits paid to an individual from the
919 Unemployment Compensation Trust Fund, but which were not charged
920 to the employment record of any employer.

921 b. An adjustment factor for excess payments shall be
922 computed to the fifth decimal place, and rounded to the fourth
923 decimal place by dividing the total excess payments during the
924 3-year period described in subparagraph (b)2. by the taxable

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925 payroll of employers eligible for a variation from the standard
 926 rate who have a benefit ratio for the current year which is less
 927 than the maximum contribution rate. For purposes of computing
 928 this adjustment factor, the taxable payroll of these employers
 929 is the same figure used to compute the adjustment factor for
 930 noncharge benefits under sub-subparagraph a. As used in this
 931 sub-subparagraph, the term "excess payments" means the amount of
 932 benefits charged to the employment record of an employer during
 933 the 3-year period described in subparagraph (b)2., less the
 934 product of the maximum contribution rate and the employer's
 935 taxable payroll for the 3 years ending June 30 of the current
 936 calendar year as reported to the tax collection service provider
 937 by September 30 of the same calendar year. As used in this sub-
 938 subparagraph, the term "total excess payments" means the sum of
 939 the individual employer excess payments for those employers that
 940 were eligible to be considered for assignment of a contribution
 941 rate different a variation from the standard rate.

942 c. If the balance of the Unemployment Compensation Trust
 943 Fund on June 30 of the calendar year immediately preceding the
 944 calendar year for which the contribution rate is being computed
 945 is less than 3.7 percent of the taxable payrolls for the year
 946 ending June 30 as reported to the tax collection service
 947 provider by September 30 of that calendar year, a positive
 948 adjustment factor shall be computed. The positive adjustment
 949 factor shall be computed annually to the fifth decimal place and
 950 rounded to the fourth decimal place by dividing the sum of the
 951 total taxable payrolls for the year ending June 30 of the
 952 current calendar year as reported to the tax collection service

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953 provider by September 30 of that calendar year into a sum equal
954 to one-fourth of the difference between the balance of the fund
955 as of June 30 of that calendar year and the sum of 4.7 percent
956 of the total taxable payrolls for that year. The positive
957 adjustment factor remains in effect for subsequent years until
958 the balance of the Unemployment Compensation Trust Fund as of
959 June 30 of the year immediately preceding the effective date of
960 the contribution rate equals or exceeds 3.7 percent of the
961 taxable payrolls for the year ending June 30 of the current
962 calendar year as reported to the tax collection service provider
963 by September 30 of that calendar year. If the balance of the
964 Unemployment Compensation Trust Fund as of June 30 of the year
965 immediately preceding the calendar year for which the
966 contribution rate is being computed exceeds 4.7 percent of the
967 taxable payrolls for the year ending June 30 of the current
968 calendar year as reported to the tax collection service provider
969 by September 30 of that calendar year, a negative adjustment
970 factor shall be computed. The negative adjustment factor shall
971 be computed annually to the fifth decimal place and rounded to
972 the fourth decimal place by dividing the sum of the total
973 taxable payrolls for the year ending June 30 of the current
974 calendar year as reported to the tax collection service provider
975 by September 30 of the calendar year into a sum equal to one-
976 fourth of the difference between the balance of the fund as of
977 June 30 of the current calendar year and 4.7 percent of the
978 total taxable payrolls of that year. The negative adjustment
979 factor remains in effect for subsequent years until the balance
980 of the Unemployment Compensation Trust Fund as of June 30 of the

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981 year immediately preceding the effective date of the
 982 contribution rate is less than 4.7 percent, but more than 3.7
 983 percent of the taxable payrolls for the year ending June 30 of
 984 the current calendar year as reported to the tax collection
 985 service provider by September 30 of that calendar year.

986 d. The maximum contribution rate that may be assigned to
 987 an employer is 5.4 percent, except employers participating in an
 988 approved short-time compensation plan may be assigned a maximum
 989 contribution rate that is 1 percent greater than the maximum
 990 contribution rate for other employers in any calendar year in
 991 which short-time compensation benefits are charged to the
 992 employer's employment record.

993 2. If the transfer of an employer's employment record to
 994 an employing unit under paragraph (f) which, before the
 995 transfer, was an employer, the tax collection service provider
 996 shall recompute a benefit ratio for the successor employer based
 997 on the combined employment records and reassign an appropriate
 998 contribution rate to the successor employer effective on the
 999 first day of the calendar quarter immediately after the
 1000 effective date of the transfer.

1001 (g) Notwithstanding any other provision of law, upon
 1002 transfer or acquisition of a business, the following conditions
 1003 apply to the assignment of rates and to transfers of
 1004 unemployment experience:

1005 1.a. If an employer transfers its trade or business, or a
 1006 portion thereof, to another employer and, at the time of the
 1007 transfer, there is any common ownership, management, or control
 1008 of the two employers, the unemployment experience attributable

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1009 to the transferred trade or business shall be transferred to the
 1010 employer to whom the business is so transferred. The rates of
 1011 both employers shall be recalculated and made effective as of
 1012 the beginning of the calendar quarter immediately following the
 1013 date of the transfer of the trade or business unless the
 1014 transfer occurred on the first day of a calendar quarter, in
 1015 which case the rate shall be recalculated as of that date.

1016 b. If, following a transfer of experience under sub-
 1017 subparagraph a., the Agency for Workforce Innovation or the tax
 1018 collection service provider determines that a substantial
 1019 purpose of the transfer of trade or business was to obtain a
 1020 reduced liability for contributions, the experience rating
 1021 account of the employers involved shall be combined into a
 1022 single account and a single rate assigned to the account.

1023 2. Whenever a person who is not at the time an employer
 1024 under this chapter acquires the trade or business of an
 1025 employer, the unemployment experience of the acquired business
 1026 shall not be transferred to the person if the Agency for
 1027 Workforce Innovation or the tax collection service provider
 1028 finds that such person acquired the business solely or primarily
 1029 for the purpose of obtaining a lower rate of contributions.
 1030 Instead, such person shall be assigned the new employer rate
 1031 under paragraph (2) (a). In determining whether the business was
 1032 acquired solely or primarily for the purpose of obtaining a
 1033 lower rate of contributions, the tax collection service provider
 1034 shall consider:

1035 a. Whether the person continued the business enterprise of
 1036 the acquired business;

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1037 b. How long such business enterprise was continued; or
 1038 c. Whether a substantial number of new employees was hired
 1039 for performance of duties unrelated to the business activity
 1040 conducted before the acquisition.

1041 3. If a person knowingly violates or attempts to violate
 1042 subparagraph 1. or subparagraph 2. or any other provision of
 1043 this chapter relating to determining the assignment of a
 1044 contribution rate, or if a person knowingly advises another
 1045 person to violate the law, the person shall be subject to the
 1046 following penalties:

1047 a. If the person is an employer, the employer shall be
 1048 assigned the highest rate assignable under this chapter for the
 1049 rate year during which such violation or attempted violation
 1050 occurred and for the 3 rate years immediately following this
 1051 rate year. However, if the person's business is already at the
 1052 highest rate for any year, or if the amount of increase in the
 1053 person's rate would be less than 2 percent for such year, then a
 1054 penalty rate of contribution of 2 percent of taxable wages shall
 1055 be imposed for such year.

1056 b. If the person is not an employer, the person shall be
 1057 subject to a civil penalty of not more than \$5,000. The
 1058 procedures for the assessment of a penalty shall be in
 1059 accordance with the procedures set forth in s. 443.141(2), and
 1060 the provisions of s. 443.141(3) shall apply to the collection of
 1061 the penalty. Any such penalty shall be deposited in the penalty
 1062 and interest account established under s. 443.211(2).

1063 4. For the purposes of this paragraph, the term:

1064 a. "Knowingly" means having actual knowledge of or acting

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1065 with deliberate ignorance or reckless disregard for the
 1066 prohibition involved.

1067 b. "Violates or attempts to violate" includes, but is not
 1068 limited to, intent to evade, misrepresent, or willfully
 1069 nondisclose.

1070 c. "Person" has the meaning given to the term by s.
 1071 7701(a)(1) of the Internal Revenue Code of 1986.

1072 d. "Trade or business" includes the employer's workforce.

1073 5. In addition to the penalty imposed by subparagraph 3.,
 1074 any person who violates this paragraph commits a felony of the
 1075 third degree, punishable as provided in s. 775.082, s. 775.083,
 1076 or s. 775.084.

1077 6. The Agency for Workforce Innovation and the tax
 1078 collection service provider shall establish procedures to
 1079 identify the transfer or acquisition of a business for the
 1080 purposes of this paragraph and shall adopt any rules necessary
 1081 to administer this paragraph.

1082 7. This paragraph shall be interpreted and applied in such
 1083 a manner as to meet the minimum requirements contained in any
 1084 guidance or regulations issued by the United States Department
 1085 of Labor.

1086 Section 24. Paragraph (a) of subsection (2) and paragraph
 1087 (a) of subsection (3) of section 443.141, Florida Statutes, are
 1088 amended to read:

1089 443.141 Collection of contributions and reimbursements.--

1090 (2) REPORTS, CONTRIBUTIONS, APPEALS.--

1091 (a) Failure to make reports and pay contributions.--If an
 1092 employing unit determined by the tax collection service provider

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1093 to be an employer subject to this chapter fails to make and file
 1094 any report as and when required by this chapter or by any rule
 1095 of the Agency for Workforce Innovation or the state agency
 1096 providing tax collection services, for the purpose of
 1097 determining the amount of contributions due by the employer
 1098 under this chapter, or if any filed report is found by the
 1099 service provider to be incorrect or insufficient, and the
 1100 employer, after being notified in writing by the service
 1101 provider to file the report, or a corrected or sufficient
 1102 report, as applicable, fails to file the report within 15 days
 1103 after the date of the mailing of the notice, the tax collection
 1104 service provider may:

1105 1. Determine the amount of contributions due from the
 1106 employer based on the information readily available to it, which
 1107 determination is deemed to be prima facie correct;

1108 2. Assess the employer the amount of contributions
 1109 determined to be due; and

1110 3. Immediately notify the employer by ~~registered or~~
 1111 ~~certified~~ mail of the determination and assessment including
 1112 penalties as provided in this chapter, if any, added and
 1113 assessed, and demand payment together with interest on the
 1114 amount of contributions from the date that amount was due and
 1115 payable.

1116 (3) COLLECTION PROCEEDINGS.--

1117 (a) Lien for payment of contributions or reimbursements.--

1118 1. There is created a lien in favor of the tax collection
 1119 service provider upon all the property, both real and personal,
 1120 of any employer liable for payment of any contribution or

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1121 reimbursement levied and imposed under this chapter for the
 1122 amount of the contributions or reimbursements due, together with
 1123 interest, costs, and penalties. If any contribution or
 1124 reimbursement imposed under this chapter or any portion of that
 1125 contribution, reimbursement, interest, or penalty is not paid
 1126 within 60 days after becoming delinquent, the tax collection
 1127 service provider may subsequently issue a notice of lien that
 1128 may be filed in the office of the clerk of the circuit court of
 1129 any county in which the delinquent employer owns property or has
 1130 conducted business. The notice of lien must include the periods
 1131 for which the contributions, reimbursements, interest, or
 1132 penalties are demanded and the amounts due. A copy of the notice
 1133 of lien must be mailed to the employer at her or his last known
 1134 address ~~by registered mail~~. The notice of lien may not be issued
 1135 and recorded until 15 days after the date the assessment becomes
 1136 final under subsection (2). Upon presentation of the notice of
 1137 lien, the clerk of the circuit court shall record it in a book
 1138 maintained for that purpose, and the amount of the notice of
 1139 lien, together with the cost of recording and interest accruing
 1140 upon the amount of the contribution or reimbursement, becomes a
 1141 lien upon the title to and interest, whether legal or equitable,
 1142 in any real property, chattels real, or personal property of the
 1143 employer against whom the notice of lien is issued, in the same
 1144 manner as a judgment of the circuit court docketed in the office
 1145 of the circuit court clerk, with execution issued to the sheriff
 1146 for levy. This lien is prior, preferred, and superior to all
 1147 mortgages or other liens filed, recorded, or acquired after the
 1148 notice of lien is filed. Upon the payment of the amounts due, or

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1149 upon determination by the tax collection service provider that
1150 the notice of lien was erroneously issued, the lien is satisfied
1151 when the service provider acknowledges in writing that the lien
1152 is fully satisfied. A lien's satisfaction does not need to be
1153 acknowledged before any notary or other public officer, and the
1154 signature of the director of the tax collection service provider
1155 or his or her designee is conclusive evidence of the
1156 satisfaction of the lien, which satisfaction shall be recorded
1157 by the clerk of the circuit court who receives the fees for
1158 those services.

1159 2. The tax collection service provider may subsequently
1160 issue a warrant directed to any sheriff in this state,
1161 commanding him or her to levy upon and sell any real or personal
1162 property of the employer liable for any amount under this
1163 chapter within his or her jurisdiction, for payment, with the
1164 added penalties and interest and the costs of executing the
1165 warrant, together with the costs of the clerk of the circuit
1166 court in recording and docketing the notice of lien, and to
1167 return the warrant to the service provider with payment. The
1168 warrant may only be issued and enforced for all amounts due to
1169 the tax collection service provider on the date the warrant is
1170 issued, together with interest accruing on the contribution or
1171 reimbursement due from the employer to the date of payment at
1172 the rate provided in this section. In the event of sale of any
1173 assets of the employer, however, priorities under the warrant
1174 shall be determined in accordance with the priority established
1175 by any notices of lien filed by the tax collection service
1176 provider and recorded by the clerk of the circuit court. The

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1177 sheriff shall execute the warrant in the same manner prescribed
 1178 by law for executions issued by the clerk of the circuit court
 1179 for judgments of the circuit court. The sheriff is entitled to
 1180 the same fees for executing the warrant as for a writ of
 1181 execution out of the circuit court, and these fees must be
 1182 collected in the same manner.

1183 Section 25. Section 624.50921, Florida Statutes, is
 1184 created to read:

1185 624.50921 Adjustments.--

1186 (1) If a taxpayer is required to amend its corporate
 1187 income tax liability under chapter 220, or the taxpayer receives
 1188 a refund of its workers' compensation administrative assessment
 1189 paid under chapter 440, the taxpayer shall file an amended
 1190 insurance premium tax return not later than 60 days after such
 1191 an occurrence.

1192 (2) If an amended insurance premium tax return is required
 1193 under subsection (1), notwithstanding any other provision of s.
 1194 95.091(3):

1195 (a) A notice of deficiency may be issued at any time
 1196 within 3 years after the date the amended insurance premium tax
 1197 return is given; or

1198 (b) If a taxpayer fails to file an amended insurance
 1199 premium tax return, a notice of deficiency may be issued at any
 1200 time.

1201
 1202 The amount of any proposed assessment set forth in such a notice
 1203 of deficiency shall be limited to the amount of any deficiency
 1204 resulting under this code from recomputation of the taxpayer's

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1205 insurance premium tax and retaliatory tax for the taxable year
 1206 after giving effect only to the change in corporate income tax
 1207 paid and the change in the amount of the workers' compensation
 1208 administrative assessment paid. Interest in accordance with s.
 1209 624.5092 is due on the amount of any deficiency from the date
 1210 fixed for filing the original insurance premium tax return for
 1211 the taxable year until the date of payment of the deficiency.

1212 (3) If an amended insurance premium tax return is required
 1213 by subsection (1), a claim for refund may be filed within 2
 1214 years after the date on which the amended insurance premium tax
 1215 return was due, regardless of whether such notice was given,
 1216 notwithstanding any other provision of s. 215.26. However, the
 1217 amount recoverable pursuant to such a claim shall be limited to
 1218 the amount of any overpayment resulting under this code from
 1219 recomputation of the taxpayer's insurance premium tax and
 1220 retaliatory tax for the taxable year after giving effect only to
 1221 the change in corporate income tax paid and the change in the
 1222 amount of the workers' compensation administrative assessment
 1223 paid.

1224 Section 26. Subsection (5) of section 624.509, Florida
 1225 Statutes, is amended to read:

1226 624.509 Premium tax; rate and computation.--

1227 (5)

1228 (a)1. There shall be allowed a credit against the net tax
 1229 imposed by this section equal to 15 percent of the amount paid
 1230 by an ~~the~~ insurer in salaries to employees located or based
 1231 within this state and who are covered by the provisions of
 1232 chapter 443.

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1233 2. As an alternative to the credit allowed in subparagraph
 1234 1., an affiliated group of corporations which includes at least
 1235 one insurance company writing premiums in Florida may elect to
 1236 take a credit against the net tax imposed by this section in an
 1237 amount that may not exceed 15 percent of the salary of the
 1238 employees of the affiliated group of corporations who perform
 1239 insurance-related activities, are located or based within this
 1240 state, and are covered by chapter 443. For purposes of this
 1241 subparagraph, the term "affiliated group of corporations" means
 1242 two or more corporations that are entirely owned directly or
 1243 indirectly by a single corporation and that constitute an
 1244 affiliated group as defined in s. 1504(a) of the Internal
 1245 Revenue Code. The amount of credit allowed under this
 1246 subparagraph is limited to the combined Florida salary tax
 1247 credits allowed for all insurance companies that were members of
 1248 the affiliated group of corporations for the tax year ending
 1249 December 31, 2002, divided by the combined Florida taxable
 1250 premiums written by all insurance companies that were members of
 1251 the affiliated group of corporations for the tax year ending
 1252 December 31, 2002, multiplied by the combined Florida taxable
 1253 premiums of the affiliated group of corporations for the current
 1254 year. An affiliated group of corporations electing this
 1255 alternative calculation method must make such election on or
 1256 before August 1, 2005. The election of this alternative
 1257 calculation method is irrevocable and binding upon successors
 1258 and assigns of the affiliated group of corporations electing
 1259 this alternative. However, if a member of an affiliated group of
 1260 corporations acquires or merges with another insurance company

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1261 after the date of the irrevocable election, the acquired or
 1262 merged company is not entitled to the affiliated group election
 1263 and shall only be entitled to calculate the tax credit under
 1264 subparagraph 1.

1265
 1266 In no event shall the salary paid to an employee by an
 1267 affiliated group of corporations be claimed as a credit by more
 1268 than one insurer or be counted more than once in an insurer's
 1269 calculation of the credit as described in subparagraph 1. or
 1270 subparagraph 2. Only the portion of an employee's salary paid
 1271 for the performance of insurance-related activities may be
 1272 included in the calculation of the premium tax credit in this
 1273 subsection.

1274 (b) For purposes of this subsection:
 1275 1.(a) The term "salaries" does not include amounts paid as
 1276 commissions.

1277 2.(b) The term "employees" does not include independent
 1278 contractors or any person whose duties require that the person
 1279 hold a valid license under the Florida Insurance Code, except
 1280 adjusters, managing general agents, and service representatives,
 1281 as persons defined in s. 626.015 s. 626.015(1), (14), and (16).

1282 3.(e) The term "net tax" means the tax imposed by this
 1283 section after applying the calculations and credits set forth in
 1284 subsection (4).

1285 4.(d) An affiliated group of corporations that created a
 1286 service company within its affiliated group on July 30, 2002,
 1287 shall allocate the salary of each service company employee
 1288 covered by contracts with affiliated group members to the

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1289 companies for which the employees perform services. The salary
 1290 allocation is based on the amount of time during the tax year
 1291 that the individual employee spends performing services or
 1292 otherwise working for each company over the total amount of time
 1293 the employee spends performing services or otherwise working for
 1294 all companies. The total amount of salary allocated to an
 1295 insurance company within the affiliated group shall be included
 1296 as that insurer's employee salaries for purposes of this
 1297 section.

1298 ~~a.1.~~ Except as provided in subparagraph 2., the term
 1299 "affiliated group of corporations" means two or more
 1300 corporations that are entirely owned by a single corporation and
 1301 that constitute an affiliated group of corporations as defined
 1302 in s. 1504(a) of the Internal Revenue Code.

1303 ~~b.2.~~ The term "service company" means a separate
 1304 corporation within the affiliated group of corporations whose
 1305 employees provide services to affiliated group members and which
 1306 are treated as service company employees for unemployment
 1307 compensation and common law purposes. The holding company of an
 1308 affiliated group may not qualify as a service company. An
 1309 insurance company may not qualify as a service company.

1310 ~~c.3.~~ If an insurance company fails to substantiate,
 1311 whether by means of adequate records or otherwise, its
 1312 eligibility to claim the service company exception under this
 1313 section, or its salary allocation under this section, no credit
 1314 shall be allowed.

1315 5. A service company that is a subsidiary of a mutual
 1316 insurance holding company, which mutual insurance holding

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1317 company was in existence on or before January 1, 2000, shall
 1318 allocate the salary of each service company employee covered by
 1319 contracts with members of the mutual insurance holding company
 1320 system to the companies for which the employees perform
 1321 services. The salary allocation is based on the ratio of the
 1322 amount of time during the tax year which the individual employee
 1323 spends performing services or otherwise working for each company
 1324 to the total amount of time the employee spends performing
 1325 services or otherwise working for all companies. The total
 1326 amount of salary allocated to an insurance company within the
 1327 mutual insurance holding company system shall be included as
 1328 that insurer's employee salaries for purposes of this section.
 1329 However, this subparagraph does not apply for any tax year
 1330 unless funds sufficient to offset the anticipated salary credits
 1331 have been appropriated to the General Revenue Fund prior to the
 1332 due date of the final return for that year.

1333 a. The term "mutual insurance holding company system"
 1334 means two or more corporations that are subsidiaries of a mutual
 1335 insurance holding company and in compliance with part IV of
 1336 chapter 628.

1337 b. The term "service company" means a separate corporation
 1338 within the mutual insurance holding company system whose
 1339 employees provide services to other members of the mutual
 1340 insurance holding company system and are treated as service
 1341 company employees for unemployment compensation and common-law
 1342 purposes. The mutual insurance holding company may not qualify
 1343 as a service company.

1344 c. If an insurance company fails to substantiate, whether

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1345 by means of adequate records or otherwise, its eligibility to
 1346 claim the service company exception under this section, or its
 1347 salary allocation under this section, no credit shall be
 1348 allowed.

1349 (c) The department may adopt rules pursuant to ss.
 1350 120.536(1) and 120.54 to administer this subsection.

1351 Section 27. Subsection (1) of section 624.5091, Florida
 1352 Statutes, is amended to read:

1353 624.5091 Retaliatory provision, insurers.--

1354 (1) (a) When by or pursuant to the laws of any other state
 1355 or foreign country any taxes, licenses, and other fees, in the
 1356 aggregate, and any fines, penalties, deposit requirements, or
 1357 other material obligations, prohibitions, or restrictions are or
 1358 would be imposed upon Florida insurers or upon the agents or
 1359 representatives of such insurers, which are in excess of such
 1360 taxes, licenses, and other fees, in the aggregate, or which are
 1361 in excess of the fines, penalties, deposit requirements, or
 1362 other obligations, prohibitions, or restrictions directly
 1363 imposed upon similar insurers, or upon the agents or
 1364 representatives of such insurers, of such other state or country
 1365 under the statutes of this state, so long as such laws of such
 1366 other state or country continue in force or are so applied, the
 1367 same taxes, licenses, and other fees, in the aggregate, or
 1368 fines, penalties, deposit requirements, or other material
 1369 obligations, prohibitions, or restrictions of whatever kind
 1370 shall be imposed by the Department of Revenue upon the insurers,
 1371 or upon the agents or representatives of such insurers, of such
 1372 other state or country doing business or seeking to do business

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1373 in this state. In determining the taxes to be imposed under this
 1374 section, 80 percent and a portion of the remaining 20 percent as
 1375 provided in paragraph (b) of the credit provided by s.
 1376 624.509(5), as limited by s. 624.509(6) and further determined
 1377 by s. 624.509(7), shall not be taken into consideration.

1378 (b) As used in this subsection, the term "portion of the
 1379 remaining 20 percent" shall be calculated by multiplying the
 1380 remaining 20 percent by a fraction, the numerator of which is
 1381 the sum of the salaries qualifying for the credit allowed by s.
 1382 624.509(5) of employees whose place of employment is located in
 1383 an enterprise zone created pursuant to chapter 290 and the
 1384 denominator of which is the sum of the salaries qualifying for
 1385 the credit allowed by s. 624.509(5).

1386 Section 28. The sum of \$2.6 million is appropriated from
 1387 the Workers' Compensation Administration Trust Fund to the
 1388 General Revenue Fund for the 2005-2006 fiscal year.

1389 Section 29. The intent of the revision to section
 1390 624.509(5)(b), Florida Statutes, in section 25 is to clarify
 1391 that adjusters, managing general agents, and service
 1392 representatives, as defined in section 626.015, Florida
 1393 Statutes, are considered employees for purposes of the salary
 1394 credit provided in section 626.509, Florida Statutes. The
 1395 reference in section 624.509, Florida Statutes, to section
 1396 626.015, Florida Statutes, was never intended to reference the
 1397 definition of a "resident."

1398 Section 30. Notwithstanding section 11 of chapter 2000-
 1399 312, Laws of Florida, section 213.21, Florida Statutes, shall
 1400 not stand repealed on October 1, 2005, as scheduled by that law,

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1401 but that section is revived and readopted.

1402 Section 31. If a security agreement pledging condominium
 1403 or homeowner association assessments or fees or club membership
 1404 dues, fees, or assessments was recorded after April 15, 2000,
 1405 and before April 10, 2005, with a clerk of the court, and if a
 1406 Uniform Commercial Code financing statement was filed with the
 1407 Secretary of State or the Florida Secured Transaction Registry
 1408 with respect to such security agreement, the excise tax on
 1409 documents under chapter 201, Florida Statutes, is not due solely
 1410 as a result of the recording of the security agreement if an
 1411 affidavit attesting that the security agreement was recorded in
 1412 error or by mistake is filed or recorded with the clerk of the
 1413 court.

1414 Section 32. Retroactive to January 1, 2005, section
 1415 196.1999, Florida Statutes, is created to read:

1416 196.1999 Space laboratories and carriers; exemption.--
 1417 Notwithstanding other provisions of this chapter, a module,
 1418 pallet, rack, locker, and any necessary associated hardware and
 1419 subsystem owned by any person and intended to be used to
 1420 transport or store cargo used for a space laboratory for the
 1421 primary purpose of conducting scientific research in space is
 1422 deemed to carry out a scientific purpose and is exempt from ad
 1423 valorem taxation.

1424 Section 33. Section 196.1994, Florida Statutes, is
 1425 repealed.

1426 Section 34. Subsection (4) of section 201.23, Florida
 1427 Statutes, is amended to read:

1428 201.23 Foreign notes and other written obligations

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1429 exempt.--
 1430 (4) (a) The excise taxes imposed by this chapter shall not
 1431 apply to the documents, notes, evidences of indebtedness,
 1432 financing statements, drafts, bills of exchange, or other
 1433 taxable items dealt with, made, issued, drawn upon, accepted,
 1434 delivered, shipped, received, signed, executed, assigned,
 1435 transferred, or sold by or to a banking organization, ~~as defined~~
 1436 ~~in s. 199.023(9)~~, in the conduct of an international banking
 1437 transaction, ~~as defined in s. 199.023(11)~~. Nothing in this
 1438 subsection shall be construed to change the application of
 1439 paragraph (2) (a).

1440 (b) For purposes of this subsection, the term:

1441 1. "Banking organization" means:

1442 a. A bank organized and existing under the laws of any
 1443 state;

1444 b. A national bank organized and existing pursuant to the
 1445 provisions of the National Bank Act, 12 U.S.C. ss. 21 et seq.;

1446 c. An Edge Act corporation organized pursuant to the
 1447 provisions of s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss.
 1448 611 et seq.;

1449 d. An international bank agency licensed pursuant to the
 1450 laws of any state;

1451 e. A federal agency licensed pursuant to ss. 4 and 5 of
 1452 the International Banking Act of 1978;

1453 f. A savings association organized and existing under the
 1454 laws of any state;

1455 g. A federal association organized and existing pursuant
 1456 to the provisions of the Home Owners' Loan Act of 1933, 12

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1457 U.S.C. ss. 1461 et seq.; or
 1458 h. A Florida export finance corporation organized and
 1459 existing pursuant to the provisions of part V of chapter 288.
 1460 2. "International banking transaction" means:
 1461 a. The financing of the exportation from, or the
 1462 importation into, the United States or between jurisdictions
 1463 abroad of tangible personal property or services;
 1464 b. The financing of the production, preparation, storage,
 1465 or transportation of tangible personal property or services
 1466 which are identifiable as being directly and solely for export
 1467 from, or import into, the United States or between jurisdictions
 1468 abroad;
 1469 c. The financing of contracts, projects, or activities to
 1470 be performed substantially abroad, except those transactions
 1471 secured by a mortgage, deed of trust, or other lien upon real
 1472 property located in the state;
 1473 d. The receipt of deposits or borrowings or the extensions
 1474 of credit by an international banking facility, except the loan
 1475 or deposit of funds secured by mortgage, deed of trust, or other
 1476 lien upon real property located in the state; or
 1477 e. Entering into foreign exchange trading or hedging
 1478 transactions in connection with the activities described in sub-
 1479 subparagraph d.
 1480 Section 35. Except as otherwise expressly provided in this
 1481 act, this act shall take effect July 1, 2005.