

1 option of posting the list of active and
2 canceled fuel licenses on the departmental web
3 site or mailing it to licensees; amending s.
4 212.05, F.S.; clarifying the tax treatment of
5 nonresident purchasers of airplanes; amending
6 s. 212.06, F.S.; clarifying that sales tax is
7 not due on any vessel imported into this state
8 for the sole purpose of being offered for
9 retail sale by a registered Florida yacht
10 broker or dealer under certain conditions;
11 amending s. 212.12, F.S.; including in the
12 definition of tax fraud willful attempts to
13 evade a tax, surcharge, or fee imposed by
14 chapter 212, F.S.; amending s. 213.053, F.S.;
15 authorizing expanded sharing of confidential
16 information between the Department of Revenue
17 and the Department of Agriculture and Consumer
18 Services for the Bill of Lading Program;
19 amending s. 213.21, F.S.; specifying which
20 taxes qualify for the automatic penalty
21 compromise or settlement of liability;
22 providing for retroactivity; amending s.
23 213.27, F.S.; clarifying that the notification
24 by the Department of Revenue to the taxpayer
25 that the taxpayer's account is being referred
26 to a debt collection agency must be at least 30
27 days before the referral; amending s. 215.26,
28 F.S.; adding a cross-reference; amending s.
29 252.372, F.S.; authorizing the Florida Surplus
30 Lines Service Office to collect the Emergency
31 Management, Preparedness, and Assistance Trust

1 Fund surcharge and deposit the proceeds into
2 the trust fund; amending s. 443.131, F.S.;
3 requiring employers who transfer their business
4 to a related entity to retain their
5 unemployment experience history under certain
6 circumstances; providing penalties; amending s.
7 443.141, F.S.; authorizing the Department of
8 Revenue to send to employers by regular mail
9 notices of unemployment tax assessments and
10 notices of the filing of liens; creating s.
11 624.50921, F.S.; creating a statute of
12 limitations for assessments of the insurance
13 premium tax if the amount of corporate income
14 tax or a workers' compensation administrative
15 assessment paid by the insurer is adjusted
16 through an amended return or refund; reviving
17 and readopting s. 213.21, F.S., relating to
18 informal conference procedures within the
19 Department of Revenue; providing effective
20 dates.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Paragraph (a) of subsection (3) of section
25 95.091, Florida Statutes, is amended to read:

26 95.091 Limitation on actions to collect taxes.--

27 (3)(a) With the exception of taxes levied under
28 chapter 198 and tax adjustments made pursuant to ss. s- 220.23
29 and 624.50921, the Department of Revenue may determine and
30 assess the amount of any tax, penalty, or interest due under
31 any tax enumerated in s. 72.011 which it has authority to

1 administer and the Department of Business and Professional
2 Regulation may determine and assess the amount of any tax,
3 penalty, or interest due under any tax enumerated in s. 72.011
4 which it has authority to administer:

5 1.a. For taxes due before July 1, 1999, within 5 years
6 after the date the tax is due, any return with respect to the
7 tax is due, or such return is filed, whichever occurs later;
8 and for taxes due on or after July 1, 1999, within 3 years
9 after the date the tax is due, any return with respect to the
10 tax is due, or such return is filed, whichever occurs later;

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

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

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

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

23 5. At any time after the taxpayer has failed to make
24 any required payment of the tax, has failed to file a required
25 return, or has filed a fraudulent return, except that for
26 taxes due on or after July 1, 1999, the limitation prescribed
27 in subparagraph 1. applies if the taxpayer has disclosed in
28 writing the tax liability to the department before the
29 department has contacted the taxpayer; or

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

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

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

5
6 or at any time after making such refund if it appears that any
7 part of the refund was induced by fraud or the
8 misrepresentation of a material fact.

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

11 198.32 Prima facie liability for tax.--

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

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

26 199.135 Due date and payment of nonrecurring tax.--The
27 nonrecurring tax imposed on notes, bonds, and other
28 obligations for payment of money secured by a mortgage, deed
29 of trust, or other lien evidenced by a written instrument
30 presented for recordation shall be due and payable when the
31 instrument is presented for recordation. If there is no

1 written instrument or if it is not so presented within 30 days
2 following creation of the obligation, then the tax shall be
3 due and payable within 30 days following creation of the
4 obligation.

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

13 1. The mortgage, deed of trust, or other lien is
14 recorded; or

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

22 (b)1. If tax has been paid to the department under
23 subparagraph (a)2., and the note, other written obligation,
24 mortgage, deed of trust, or other lien with respect to which
25 the tax was paid is subsequently recorded, a notation
26 reflecting the prior payment of the tax must be made upon the
27 mortgage or other lien.

28 2. Notwithstanding paragraph (a), if funds are
29 designated on a closing statement as tax collected from the
30 purchaser, but the mortgage, deed of trust, or other lien with
31 respect to which the tax was collected has not been recorded

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

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

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

9 201.02 Tax on deeds and other instruments relating to
10 real property or interests in real property.--

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

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

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

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

1 deed or other instrument conveying the interest in Florida
2 real property.

3 2. Notwithstanding paragraph (a), if funds are
4 designated on a closing statement as tax collected from the
5 purchaser, but a default or cancellation occurs pursuant to s.
6 721.08(2)(a) or s. 721.08(2)(b) and no deed or other
7 instrument conveying interest in Florida real property has
8 been recorded or delivered to the purchaser, the tax must be
9 paid to the department on or before the 20th day of the month
10 following the month in which the funds are available for
11 release from escrow unless the funds have been refunded to the
12 purchaser.

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

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

17 201.08 Tax on promissory or nonnegotiable notes,
18 written obligations to pay money, or assignments of wages or
19 other compensation; exception.--

20 (8)(a) In recognition of the special escrow
21 requirements that apply to sales of timeshare interests in
22 timeshare plans pursuant to s. 721.08, tax on notes or other
23 written obligations and mortgages or other evidences of
24 indebtedness executed in conjunction with the sale by a
25 developer of a timeshare interest in a timeshare plan is due
26 and payable on the earlier of the date on which:

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

30 2. All of the conditions precedent to the release of
31 the purchaser's escrowed funds or other property pursuant to

1 s. 721.08(2)(c) have been met, regardless of whether the
2 developer has posted an alternative assurance. Tax due under
3 this subparagraph is due and payable on or before the 20th day
4 of the month following the month in which these conditions
5 were met.

6 (b)1. If tax has been paid to the department pursuant
7 to subparagraph (a)2., and the note, other written obligation,
8 mortgage, or other evidence of indebtedness with respect to
9 which the tax was paid is subsequently recorded or filed in
10 this state, a notation reflecting the prior payment of the tax
11 must be made upon the note, other written obligation,
12 mortgage, or other evidence of indebtedness recorded or filed
13 in this state.

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

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

25 Section 6. Paragraph (a) of subsection (15) of section
26 202.11, Florida Statutes, is amended to read:

27 202.11 Definitions.--As used in this chapter:

28 (15) "Service address" means:

29 (a) Except as otherwise provided in this section:
30
31

1 1. The location of the communications equipment from
2 which communications services originate or at which
3 communications services are received by the customer;~~;-~~

4 2. In the case of a communications service paid
5 through a credit or payment mechanism that does not relate to
6 a service address, such as a bank, travel, debit, or credit
7 card, and in the case of third-number and calling-card calls,
8 the term "service address" means ~~is~~ the address of the central
9 office, as determined by the area code and the first three
10 digits of the seven-digit originating telephone number; ~~or-~~

11 3. If the location of the equipment described in
12 subparagraph 1. is not known and subparagraph 2. is
13 inapplicable, the term "service address" means the location of
14 the customer's primary use of the communications service. For
15 the purposes of this subparagraph, the location of the
16 customer's primary use of a communications service is the
17 residential street address or the business street address of
18 the customer.

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

21 206.09 Reports from carriers transporting motor fuel
22 or similar products.--

23 (6) All moneys derived from the penalties imposed by
24 this section shall be deposited into the Fuel Tax Collection
25 Trust Fund, and allocated in the same manner as provided by s.
26 206.875.

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

29 206.095 Reports from terminal operators.--

30 (4) All moneys derived from the penalties imposed by
31 this section shall be deposited into the Fuel Tax Collection

1 Trust Fund, and allocated in the same manner as provided by s.
2 206.875.

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

5 206.14 Inspection of records; audits; hearings; forms;
6 rules and regulations.--

7 (6) All moneys derived from the penalties imposed by
8 this section shall be deposited into the Fuel Tax Collection
9 Trust Fund, and allocated in the same manner as provided by s.
10 206.875.

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

13 206.27 Records and files as public records.--

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

25 Section 11. Subsection (3) is added to section
26 206.485, Florida Statutes, to read:

27 206.485 Tracking system reporting requirements.--

28 (3) All moneys derived from the penalties imposed by
29 this section shall be deposited into the Fuel Tax Collection
30 Trust Fund, and allocated in the same manner as provided by s.
31 206.875.

1 Section 12. Paragraph (a) of subsection (1) of section
2 212.05, Florida Statutes, is amended to read:

3 212.05 Sales, storage, use tax.--It is hereby declared
4 to be the legislative intent that every person is exercising a
5 taxable privilege who engages in the business of selling
6 tangible personal property at retail in this state, including
7 the business of making mail order sales, or who rents or
8 furnishes any of the things or services taxable under this
9 chapter, or who stores for use or consumption in this state
10 any item or article of tangible personal property as defined
11 herein and who leases or rents such property within the state.

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

15 (a)1.

16 a. At the rate of 6 percent of the sales price of each
17 item or article of tangible personal property when sold at
18 retail in this state, computed on each taxable sale for the
19 purpose of remitting the amount of tax due the state, and
20 including each and every retail sale.

21 b. Each occasional or isolated sale of an airplane
22 ~~aircraft~~, boat, mobile home, or motor vehicle of a class or
23 type which is required to be registered, licensed, titled, or
24 documented in this state or by the United States Government
25 shall be subject to tax at the rate provided in this
26 paragraph. The department shall by rule adopt any nationally
27 recognized publication for valuation of used motor vehicles as
28 the reference price list for any used motor vehicle which is
29 required to be licensed pursuant to s. 320.08(1), (2), (3)(a),
30 (b), (c), or (e), or (9). If any party to an occasional or
31 isolated sale of such a vehicle reports to the tax collector a

1 sales price which is less than 80 percent of the average loan
2 price for the specified model and year of such vehicle as
3 listed in the most recent reference price list, the tax levied
4 under this paragraph shall be computed by the department on
5 such average loan price unless the parties to the sale have
6 provided to the tax collector an affidavit signed by each
7 party, or other substantial proof, stating the actual sales
8 price. Any party to such sale who reports a sales price less
9 than the actual sales price is guilty of a misdemeanor of the
10 first degree, punishable as provided in s. 775.082 or s.
11 775.083. The department shall collect or attempt to collect
12 from such party any delinquent sales taxes. In addition, such
13 party shall pay any tax due and any penalty and interest
14 assessed plus a penalty equal to twice the amount of the
15 additional tax owed. Notwithstanding any other provision of
16 law, the Department of Revenue may waive or compromise any
17 penalty imposed pursuant to this subparagraph.

18 2. This paragraph does not apply to the sale of a boat
19 or airplane by or through a registered dealer under this
20 chapter to a purchaser who, at the time of taking delivery, is
21 a nonresident of this state, does not make his or her
22 permanent place of abode in this state, and is not engaged in
23 carrying on in this state any employment, trade, business, or
24 profession in which the boat or airplane will be used in this
25 state, or is a corporation none of the officers or directors
26 of which is a resident of, or makes his or her permanent place
27 of abode in, this state, or is a noncorporate entity that has
28 no individual vested with authority to participate in the
29 management, direction, or control of the entity's affairs who
30 is a resident of, or makes his or her permanent abode in, this
31 state. For purposes of this exemption, either a registered

1 dealer acting on his or her own behalf as seller, a registered
2 dealer acting as broker on behalf of a seller, or a registered
3 dealer acting as broker on behalf of the purchaser may be
4 deemed to be the selling dealer. This exemption shall not be
5 allowed unless:

6 a. The purchaser removes a qualifying boat, as
7 described in sub-subparagraph f., from the state within 90
8 days after the date of purchase or the purchaser removes a
9 nonqualifying boat or an airplane from this state within 10
10 days after the date of purchase or, when the boat or airplane
11 is repaired or altered, within 20 days after completion of the
12 repairs or alterations;

13 b. The purchaser, within 30 days from the date of
14 departure, shall provide the department with written proof
15 that the purchaser licensed, registered, titled, or documented
16 the boat or airplane outside the state. If such written proof
17 is unavailable, within 30 days the purchaser shall provide
18 proof that the purchaser applied for such license, title,
19 registration, or documentation. The purchaser shall forward
20 to the department proof of title, license, registration, or
21 documentation upon receipt.

22 c. The purchaser, within 10 days of removing the boat
23 or airplane from Florida, shall furnish the department with
24 proof of removal in the form of receipts for fuel, dockage,
25 slippage, tie-down, or hangaring from outside of Florida. The
26 information so provided must clearly and specifically identify
27 the boat or aircraft;

28 d. The selling dealer, within 5 days of the date of
29 sale, shall provide to the department a copy of the sales
30 invoice, closing statement, bills of sale, and the original
31

1 affidavit signed by the purchaser attesting that he or she has
2 read the provisions of this section;

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

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

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

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

24 (III) Decals shall display information to identify the
25 boat as a qualifying boat under this sub-subparagraph,
26 including, but not limited to, the decal's date of expiration.

27 (IV) The department is authorized to require dealers
28 who purchase decals to file reports with the department and
29 may prescribe all necessary records by rule. All such records
30 are subject to inspection by the department.

31

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

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

21 (VII) The department is authorized to adopt rules
22 necessary to administer and enforce this subparagraph and to
23 publish the necessary forms and instructions.

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

27
28 If the purchaser fails to remove the qualifying boat from this
29 state within 90 days after purchase or a nonqualifying boat or
30 an airplane from this state within 10 days after purchase or,
31 when the boat or airplane is repaired or altered, within 20

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

24 Section 13. Paragraph (e) of subsection (1) of section
25 212.06, Florida Statutes, is amended to read:

26 212.06 Sales, storage, use tax; collectible from
27 dealers; "dealer" defined; dealers to collect from purchasers;
28 legislative intent as to scope of tax.--

29 (1)

30 (e)1. Notwithstanding any other provision of this
31 chapter, tax shall not be imposed on any vessel registered

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

15 2. The provisions of this paragraph do not apply to
16 any vessel when used for transporting persons or goods for
17 compensation; when offered, let, or rented to another for
18 consideration; when offered for rent or hire as a means of
19 transportation for compensation; or when offered or used to
20 provide transportation for persons solicited through personal
21 contact or through advertisement on a "share expense" basis.

22 3. Notwithstanding any other provision of this
23 chapter, tax may not be imposed on any vessel imported into
24 this state for the sole purpose of being offered for sale at
25 retail by a yacht broker or yacht dealer registered in this
26 state if the vessel remains under the care, custody, and
27 control of the registered broker or dealer and the owner of
28 the vessel does not make personal use of the vessel during
29 that time. The provisions of this chapter govern the
30 taxability of any sale or use of the vessel subsequent to its
31 importation under this provision.

1 Section 14. Present paragraph (e) of subsection (2) of
2 section 212.12, Florida Statutes, is redesignated as paragraph
3 (f), present paragraph (f) of that subsection is redesignated
4 as paragraph (g) and amended, and a new paragraph (e) is added
5 to that subsection, to read:

6 212.12 Dealer's credit for collecting tax; penalties
7 for noncompliance; powers of Department of Revenue in dealing
8 with delinquents; brackets applicable to taxable transactions;
9 records required.--

10 (2)

11 (e) A person who willfully attempts in any manner to
12 evade any tax, surcharge, or fee imposed under this chapter or
13 the payment thereof is, in addition to any other penalties
14 provided by law, liable for a specific penalty in the amount
15 of 100 percent of the tax, surcharge, or fee, and commits a
16 felony of the third degree, punishable as provided in s.
17 775.082, s. 775.083, or s. 775.084.

18 ~~(g)(f)~~ A dealer who files ~~Dealers filing~~ a
19 consolidated return pursuant to s. 212.11(1)(e) ~~is shall be~~
20 subject to the penalty established in paragraph (e) unless the
21 dealer has paid the required estimated tax for his or her
22 consolidated return as a whole without regard to each
23 location. If the dealer fails to pay the required estimated
24 tax for his or her consolidated return as a whole, each filing
25 location shall stand on its own with respect to calculating
26 penalties pursuant to paragraph ~~(f)~~ (e).

27 Section 15. Paragraph (1) of subsection (7) of section
28 213.053, Florida Statutes, is amended to read:

29 213.053 Confidentiality and information sharing.--

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

1 (1) Information relative to chapter 212 and the Bill
2 of Lading Program to the Office of Agriculture Law Enforcement
3 of the Department of Agriculture and Consumer Services in the
4 conduct of its official duties ~~the Bill of Lading Program~~.
5 ~~This information is limited to the business name and whether~~
6 ~~the business is in compliance with chapter 212.~~

7 Section 16. Subsection (10) of section 213.21, Florida
8 Statutes, is amended to read:

9 213.21 Informal conferences; compromises.--

10 (10)(a) ~~Effective July 1, 2003,~~ Notwithstanding any
11 other provision of law and solely for the purpose of
12 administering the taxes tax imposed by ss. 125.0104 and
13 125.0108, and chapter 212, except s. 212.0606, under the
14 circumstances set forth in this subsection, the department
15 shall settle or compromise a taxpayer's liability for penalty
16 without requiring the taxpayer to submit a written request for
17 compromise or settlement.

18 (b) For taxpayers who file returns and remit tax on a
19 monthly basis:

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

22 a. No noncompliant filing event in the immediately
23 preceding 12-month period and no unresolved ~~chapter 212~~
24 liability under s. 125.0104, s. 125.0108, or chapter 212
25 resulting from a noncompliant filing event; or

26 b. One noncompliant filing event in the immediately
27 preceding 12-month period, resolution of the current
28 noncompliant filing event through payment of tax and interest
29 and the filing of a return within 30 days after notification
30 by the department, and no unresolved ~~chapter 212~~ liability
31

1 under s. 125.0104, s. 125.0108, or chapter 212 resulting from
2 a noncompliant filing event.

3 2. If a taxpayer has two or more noncompliant filing
4 events in the immediately preceding 12-month period, the
5 taxpayer shall be liable, absent a showing by the taxpayer
6 that the noncompliant filing event was due to extraordinary
7 circumstances, for the penalties provided in s. 125.0104 or s.
8 125.0108 and s. 212.12, including loss of collection
9 allowance, and shall be reported to a credit bureau.

10 (c) For taxpayers who file returns and remit tax on a
11 quarterly basis, any penalty related to a noncompliant filing
12 event shall be settled or compromised if the taxpayer has no
13 noncompliant filing event in the immediately preceding
14 12-month period and no unresolved ~~chapter 212~~ liability under
15 s. 125.0104, s. 125.0108, or chapter 212 resulting from a
16 noncompliant filing event.

17 (d) For purposes of this subsection:

18 1. "Noncompliant filing event" means a failure to
19 timely file a complete and accurate return required under s.
20 125.0104, s. 125.0108, or chapter 212 or a failure to timely
21 pay the amount of tax reported on a return required by s.
22 125.0104, s. 125.0108, or chapter 212.

23 2. "Extraordinary circumstances" means the occurrence
24 of events beyond the control of the taxpayer, such as, but not
25 limited to, the death of the taxpayer, acts of war or
26 terrorism, natural disasters, fire, or other casualty, or the
27 nonfeasance or misfeasance of the taxpayer's employees or
28 representatives responsible for compliance with s. 125.0104,
29 s. 125.0108, or the provisions of chapter 212. With respect to
30 the acts of an employee or representative, the taxpayer must
31 show that the principals of the business lacked actual

1 knowledge of the noncompliance and that the noncompliance was
2 resolved within 30 days after actual knowledge.

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

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

8 213.27 Contracts with debt collection agencies and
9 certain vendors.--

10 (1) The Department of Revenue may, for the purpose of
11 collecting any delinquent taxes due from a taxpayer, including
12 taxes for which a bill or notice has been generated, contract
13 with any debt collection agency or attorney doing business
14 within or without this state for the collection of such
15 delinquent taxes including penalties and interest thereon. The
16 department may also share confidential information pursuant to
17 the contract necessary for the collection of delinquent taxes
18 and taxes for which a billing or notice has been generated.
19 Contracts will be made pursuant to chapter 287. The taxpayer
20 must be notified by mail by the department, its employees, or
21 its authorized representative at least 30 days prior to
22 commencing any litigation to recover any delinquent taxes. The
23 taxpayer must be notified by mail by the department at least
24 30 days prior to the initial assignment by the department of
25 the taxpayer's account for ~~assigning~~ the collection of any
26 taxes by ~~to~~ the debt collection agency.

27 (2) The department may enter into contracts with any
28 individual or business for the purpose of identifying
29 intangible personal property tax liability. Contracts may
30 provide for the identification of assets subject to the tax on
31 intangible personal property, the determination of value of

1 such property, the requirement for filing a tax return and the
2 collection of taxes due, including applicable penalties and
3 interest thereon. The department may share confidential
4 information pursuant to the contract necessary for the
5 identification of taxable intangible personal property.
6 Contracts shall be made pursuant to chapter 287. The taxpayer
7 must be notified by mail by the department at least 30 days
8 prior to the department assigning identification of intangible
9 personal property to an individual or business.

10 Section 19. Subsection (2) of section 215.26, Florida
11 Statutes, is amended to read:

12 215.26 Repayment of funds paid into State Treasury
13 through error.--

14 (2) Application for refunds as provided by this
15 section must be filed with the Chief Financial Officer, except
16 as otherwise provided in this subsection, within 3 years after
17 the right to the refund has accrued or else the right is
18 barred. Except as provided in chapter 198, ~~and~~ s. 220.23, and
19 s. 624.50921, an application for a refund of a tax enumerated
20 in s. 72.011, which tax was paid after September 30, 1994, and
21 before July 1, 1999, must be filed with the Chief Financial
22 Officer within 5 years after the date the tax is paid, and
23 within 3 years after the date the tax was paid for taxes paid
24 on or after July 1, 1999. The Chief Financial Officer may
25 delegate the authority to accept an application for refund to
26 any state agency, or the judicial branch, vested by law with
27 the responsibility for the collection of any tax, license, or
28 account due. The application for refund must be on a form
29 approved by the Chief Financial Officer and must be
30 supplemented with additional proof the Chief Financial Officer
31 deems necessary to establish the claim; provided, the claim is

1 not otherwise barred under the laws of this state. Upon
2 receipt of an application for refund, the judicial branch or
3 the state agency to which the funds were paid shall make a
4 determination of the amount due. If an application for refund
5 is denied, in whole or in part, the judicial branch or such
6 state agency shall notify the applicant stating the reasons
7 therefor. Upon approval of an application for refund, the
8 judicial branch or such state agency shall furnish the Chief
9 Financial Officer with a properly executed voucher authorizing
10 payment.

11 Section 20. Effective for policies issued or renewed
12 on or after January 1, 2006, section 252.372, Florida
13 Statutes, is amended to read:

14 252.372 Imposition and collection of surcharge.--In
15 order to provide funds for emergency management, preparedness,
16 and assistance, an annual surcharge of \$2 per policy shall be
17 imposed on every homeowner's, mobile home owner's, tenant
18 homeowner's, and condominium unit owner's policy, and an
19 annual \$4 surcharge shall be imposed on every commercial fire,
20 commercial multiple peril, and business owner's property
21 insurance policy, issued or renewed on or after May 1, 1993.
22 The surcharge shall be paid by the policyholder to the
23 insurer. The insurer shall collect the surcharge and remit it
24 to the Department of Revenue, which shall collect, administer,
25 audit, and enforce the surcharge pursuant to s. 624.5092. The
26 surcharge is not to be considered premiums of the insurer;
27 however, nonpayment of the surcharge by the insured may be a
28 valid reason for cancellation of the policy. For those
29 policies in which the surplus lines tax and the service fee
30 are collected and remitted to the Surplus Lines Service
31 Office, as created under s. 626.921, the surcharge must be

1 remitted to the service office at the same time as the surplus
2 lines tax is remitted. All penalties for failure to remit the
3 surplus lines tax and service fee are applicable for those
4 surcharges required to be remitted to the service office. The
5 service office shall deposit all surcharges that it collects
6 into the Emergency Management, Preparedness, and Assistance
7 Trust Fund at least monthly. All proceeds of the surcharge
8 shall be deposited in the Emergency Management, Preparedness,
9 and Assistance Trust Fund and may not be used to supplant
10 existing funding.

11 Section 21. Effective January 1, 2006, present
12 paragraphs (g), (h), (i), and (j) of subsection (3) of section
13 443.131, Florida Statutes, are redesignated as paragraphs (h),
14 (i), (j), and (k), respectively, and a new paragraph (g) is
15 added to that subsection to read:

16 443.131 Contributions.--

17 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
18 EXPERIENCE.--

19 (g) Notwithstanding any other provision of law, the
20 following conditions apply to the assignment of rates and to
21 transfers of experience:

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

1 occurred on the first day of a calendar quarter, the rate
2 shall be recalculated as of that date.

3 b. If, following a transfer of experience under
4 subparagraph 1.a., the Agency for Workforce Innovation or the
5 tax collection service provider determines that a substantial
6 purpose of the transfer of trade or business was to obtain a
7 reduced liability for contributions, the experience rating
8 account of the employers involved must be combined into a
9 single account and a single rate must be assigned to the
10 account.

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

23 a. Whether the person continued the business
24 enterprise of the acquired business and, if so, how long the
25 business enterprise was continued; or

26 b. Whether a substantial number of new employees were
27 hired to perform duties unrelated to the business activity
28 conducted before the acquisition.

29 3.a. A person who knowingly violates or attempts to
30 violate subparagraph 1. or subparagraph 2. or any other
31 provision of this chapter relating to determining the

1 assignment of a contribution rate, or a person who knowingly
2 advises another person to violate the law, is subject to the
3 following penalties:

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

14 (II) If the person is not an employer, he or she is
15 subject to a civil monetary penalty of not more than \$5,000.
16 The procedures for the assessment of a penalty must be in
17 accordance with the procedures set forth in s. 443.141(2), and
18 s. 443.141(3) applies to the collection of the penalty. The
19 proceeds from any such penalty must be deposited in the
20 penalty and interest account established under s. 443.211(2).

21 b. For the purposes of this paragraph, the term
22 "knowingly" means having actual knowledge of or acting with
23 deliberate ignorance or reckless disregard for the prohibition
24 involved.

25 c. For the purposes of this paragraph, the term
26 "violates or attempts to violate" includes, but is not limited
27 to, intent to evade, misrepresent, or willfully nondisclose.

28 d. In addition to the penalty imposed by
29 sub-subparagraph a., a violation of this paragraph is a felony
30 of the third degree, punishable as provided in s. 775.082, s.
31 775.083, or s. 775.084.

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

6 5. For the purposes of this paragraph, the term:

7 a. "Person" has the meaning given to the term by s.
8 7701(a)(1) of the Internal Revenue Code of 1986; and

9 b. "Trade or business" includes the employer's
10 workforce.

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

15 Section 22. Paragraph (a) of subsection (2) and
16 paragraph (a) of subsection (3) of section 443.141, Florida
17 Statutes, are amended to read:

18 443.141 Collection of contributions and
19 reimbursements.--

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

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

1 report, as applicable, fails to file the report within 15 days
2 after the date of the mailing of the notice, the tax
3 collection service provider may:

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

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

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

15 (3) COLLECTION PROCEEDINGS.--

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

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

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

30 2. The tax collection service provider may
31 subsequently issue a warrant directed to any sheriff in this

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

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

25 624.50921 Adjustments.--

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

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

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

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

10
11 The amount of any proposed assessment set forth in such a
12 notice of deficiency shall be limited to the amount of any
13 deficiency resulting under this code from recomputation of the
14 taxpayer's insurance premium tax and retaliatory tax for the
15 taxable year after giving effect only to the change in
16 corporate income tax paid and the change in the amount of the
17 workers' compensation administrative assessment paid.
18 Interest in accordance with s. 624.5092 is due on the amount
19 of any deficiency from the date fixed for filing the original
20 insurance premium tax return for the taxable year until the
21 date of payment of the deficiency.

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

1 and the change in the amount of the workers' compensation
2 administrative assessment paid.

3 Section 24. Notwithstanding section 11 of chapter
4 2000-312, Laws of Florida, section 213.21, Florida Statutes,
5 shall not stand repealed on October 1, 2005, as scheduled by
6 that law, but that section is revived and readopted.

7 Section 25. Except as otherwise expressly provided in
8 this act, this act shall take effect July 1, 2005.

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SENATE SUMMARY

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3 Amends provisions relating to tax administration. Allows
4 an estate that is not required to file a federal tax
5 return to file with the clerk of the court an affidavit
6 attesting that no Florida estate tax is due, regardless
7 of the decedent's date of death. Provides special
8 provisions for the imposition of the nonrecurring
9 intangibles tax on the sale of a timeshare interest in a
10 timeshare plan. Provides special provisions for the
11 imposition of the tax on deeds or other instruments
12 relating to real property or interests in real property
13 on the sale of a timeshare interest in a timeshare plan.
14 Provides special provisions for the imposition of the tax
15 on promissory or nonnegotiable notes or written
16 obligations to pay money on the sale of a timeshare
17 interest in a timeshare plan. Provides an additional
18 definition of the term "service address" for the purposes
19 of the tax on communications services. Provides for the
20 distribution of penalties in matters relating to fuel
21 taxes. Allows the Department of Revenue the option of
22 posting the list of active and canceled fuel licenses on
23 the departmental web site or mailing it to licensees.
24 Clarifies the treatment of nonresident purchasers of
25 airplanes. Includes in the definition of tax fraud
26 willful attempts to evade a tax, surcharge, or fee
27 imposed by chapter 212, F.S. Authorizes expanded sharing
28 of confidential information between the Department of
29 Revenue and the Department of Agriculture and Consumer
30 Services for the Bill of Lading Program. Specifies which
31 taxes qualify for the automatic penalty compromise or
settlement of liability. Provides for retroactivity.
Clarifies that the notification by the Department of
Revenue to the taxpayer that the taxpayer's account is
being referred to a debt collection agency must be at
least 30 days before the referral. Authorizes the Florida
Surplus Lines Service Office to collect the Emergency
Management, Preparedness, and Assistance Trust Fund
surcharge and deposit the proceeds into the trust fund.
Requires employers who transfer their business to a
related entity to retain their unemployment experience
history under certain circumstances. Provides penalties.
Authorizes the Department of Revenue to send to employers
by regular mail notices of unemployment tax assessments
and notices of the filing of liens. Creates a statute of
limitations for assessments of the insurance premium tax
if the amount of corporate income tax or a workers'
compensation administrative assessment paid by the
insurer is adjusted through an amended return or refund.
Revives and readopts s. 213.21, F.S., relating to
informal conference procedures within the Department of
Revenue.