



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.  
4 212.0305, F.S.; permitting golf courses to be  
5 built with the proceeds of a charter county  
6 convention development tax; amending s. 212.05,  
7 F.S.; clarifying the tax treatment of  
8 nonresident purchasers of aircraft; amending s.  
9 212.06, F.S.; clarifying that sales tax is not  
10 due on any vessel imported into this state for  
11 the sole purpose of being offered for retail  
12 sale by a registered Florida yacht broker or  
13 dealer under certain conditions; amending s.  
14 212.12, F.S.; including in the definition of  
15 tax fraud willful attempts to evade a tax,  
16 surcharge, or fee imposed by chapter 212, F.S.;  
17 amending s. 213.053, F.S.; authorizing expanded  
18 sharing of confidential information between the  
19 Department of Revenue and the Department of  
20 Agriculture and Consumer Services for the Bill  
21 of Lading Program; amending s. 213.21, F.S.;  
22 specifying which taxes qualify for the  
23 automatic penalty compromise or settlement of  
24 liability; providing for retroactivity;  
25 amending s. 213.27, F.S.; clarifying that the  
26 notification by the Department of Revenue to  
27 the taxpayer that the taxpayer's account is  
28 being referred to a debt collection agency must  
29 be at least 30 days before the referral;  
30 amending s. 215.26, F.S.; adding a  
31 cross-reference; amending s. 252.372, F.S.;

1 authorizing the Florida Surplus Lines Service  
2 Office to collect the Emergency Management,  
3 Preparedness, and Assistance Trust Fund  
4 surcharge and deposit the proceeds into the  
5 trust fund; amending s. 443.131, F.S.;  
6 requiring employers who transfer their business  
7 to a related entity to retain their  
8 unemployment experience history under certain  
9 circumstances; providing penalties; amending s.  
10 443.141, F.S.; authorizing the Department of  
11 Revenue to send to employers by regular mail  
12 notices of unemployment tax assessments and  
13 notices of the filing of liens; creating s.  
14 624.50921, F.S.; creating a statute of  
15 limitations for assessments of the insurance  
16 premium tax if the amount of corporate income  
17 tax or a workers' compensation administrative  
18 assessment paid by the insurer is adjusted  
19 through an amended return or refund; amending  
20 s. 624.509, F.S.; providing for an alternative  
21 method of calculating a tax credit against the  
22 insurance premium tax for certain groups of  
23 affiliated corporations; clarifying the  
24 definition of the term "employees" for purposes  
25 of calculating such a credit; authorizing the  
26 department to adopt rules to administer such a  
27 credit; providing legislative intent regarding  
28 the meaning of the term "employees" for  
29 purposes of determining the salary credit  
30 against the insurance premium tax; reviving and  
31 readopting s. 213.21, F.S., relating to

1 informal conference procedures within the  
2 Department of Revenue; exempting from the  
3 documentary stamp tax certain security  
4 agreements recorded in error or by mistake;  
5 providing effective dates.  
6

7 Be It Enacted by the Legislature of the State of Florida:  
8

9 Section 1. Paragraph (a) of subsection (3) of section  
10 95.091, Florida Statutes, is amended to read:

11 95.091 Limitation on actions to collect taxes.--

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

21 1.a. For taxes due before July 1, 1999, within 5 years  
22 after the date the tax is due, any return with respect to the  
23 tax is due, or such return is filed, whichever occurs later;  
24 and for taxes due on or after July 1, 1999, within 3 years  
25 after the date the tax is due, any return with respect to the  
26 tax is due, or such return is filed, whichever occurs later;

27 b. Effective July 1, 2002, notwithstanding  
28 sub-subparagraph a., within 3 years after the date the tax is  
29 due, any return with respect to the tax is due, or such return  
30 is filed, whichever occurs later;  
31

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

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

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

9           5. At any time after the taxpayer has failed to make  
10 any required payment of the tax, has failed to file a required  
11 return, or has filed a fraudulent return, except that for  
12 taxes due on or after July 1, 1999, the limitation prescribed  
13 in subparagraph 1. applies if the taxpayer has disclosed in  
14 writing the tax liability to the department before the  
15 department has contacted the taxpayer; or

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

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

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

22  
23 or at any time after making such refund if it appears that any  
24 part of the refund was induced by fraud or the  
25 misrepresentation of a material fact.

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

28           198.32 Prima facie liability for tax.--

29           (2) Whenever an estate is not subject to tax under  
30 this chapter and is not required to file a return, the  
31 personal representative may execute an affidavit attesting

1 that the estate is not taxable. The form of the affidavit  
2 shall be prescribed by the department, and shall include, but  
3 not be limited to, statements regarding the decedent's  
4 domicile and whether a federal estate tax return will be  
5 filed, and acknowledgment of the personal representative's  
6 personal liability under s. 198.23. This affidavit shall be  
7 subject to record and admissible in evidence to show  
8 nonliability for tax. This subsection applies to all estates,  
9 regardless of the date of death of the decedent.

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

12 199.135 Due date and payment of nonrecurring tax.--The  
13 nonrecurring tax imposed on notes, bonds, and other  
14 obligations for payment of money secured by a mortgage, deed  
15 of trust, or other lien evidenced by a written instrument  
16 presented for recordation shall be due and payable when the  
17 instrument is presented for recordation. If there is no  
18 written instrument or if it is not so presented within 30 days  
19 following creation of the obligation, then the tax shall be  
20 due and payable within 30 days following creation of the  
21 obligation.

22 (5)(a) In recognition of the special escrow  
23 requirements that apply to sales of timeshare interests in  
24 timeshare plans pursuant to s. 721.08, tax on notes or other  
25 obligations secured by a mortgage, deed of trust, or other  
26 lien upon real property situated in this state executed in  
27 conjunction with the sale by a developer of a timeshare  
28 interest in a timeshare plan is due and payable on the earlier  
29 of the date on which:

30 1. The mortgage, deed of trust, or other lien is  
31 recorded; or

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

8           (b)1. If tax has been paid to the department under  
9 subparagraph (a)2., and the note, other written obligation,  
10 mortgage, deed of trust, or other lien with respect to which  
11 the tax was paid is subsequently recorded, a notation  
12 reflecting the prior payment of the tax must be made upon the  
13 mortgage or other lien.

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

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

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

26           201.02 Tax on deeds and other instruments relating to  
27 real property or interests in real property.--

28           (10)(a) In recognition of the special escrow  
29 requirements that apply to sales of timeshare interests in  
30 timeshare plans pursuant to s. 721.08, tax on deeds or other  
31 instruments conveying any interest in Florida real property

1 which are executed in conjunction with the sale by a developer  
2 of a timeshare interest in a timeshare plan is due and payable  
3 on the earlier of the date on which:

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

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

13 (b)1. If tax has been paid to the department pursuant  
14 to subparagraph (a)2., and the deed or other instrument  
15 conveying the interest in Florida real property with respect  
16 to which the tax was paid is subsequently recorded, a notation  
17 reflecting the prior payment of the tax must be made upon the  
18 deed or other instrument conveying the interest in Florida  
19 real property.

20 2. Notwithstanding paragraph (a), if funds are  
21 designated on a closing statement as tax collected from the  
22 purchaser, but a default or cancellation occurs pursuant to s.  
23 721.08(2)(a) or s. 721.08(2)(b) and no deed or other  
24 instrument conveying interest in Florida real property has  
25 been recorded or delivered to the purchaser, the tax must be  
26 paid to the department on or before the 20th day of the month  
27 following the month in which the funds are available for  
28 release from escrow unless the funds have been refunded to the  
29 purchaser.

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

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

3           201.08 Tax on promissory or nonnegotiable notes,  
4 written obligations to pay money, or assignments of wages or  
5 other compensation; exception.--

6           (8)(a) In recognition of the special escrow  
7 requirements that apply to sales of timeshare interests in  
8 timeshare plans pursuant to s. 721.08, tax on notes or other  
9 written obligations and mortgages or other evidences of  
10 indebtedness executed in conjunction with the sale by a  
11 developer of a timeshare interest in a timeshare plan is due  
12 and payable on the earlier of the date on which:

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

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

23           (b)1. If tax has been paid to the department pursuant  
24 to subparagraph (a)2., and the note, other written obligation,  
25 mortgage, or other evidence of indebtedness with respect to  
26 which the tax was paid is subsequently recorded or filed in  
27 this state, a notation reflecting the prior payment of the tax  
28 must be made upon the note, other written obligation,  
29 mortgage, or other evidence of indebtedness recorded or filed  
30 in this state.

31

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

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

12           Section 6. Paragraph (a) of subsection (15) of section  
13 202.11, Florida Statutes, is amended to read:

14           202.11 Definitions.--As used in this chapter:

15           (15) "Service address" means:

16           (a) Except as otherwise provided in this section:<sup>7</sup>

17           1. The location of the communications equipment from  
18 which communications services originate or at which  
19 communications services are received by the customer;<sup>7</sup>

20           2. In the case of a communications service paid  
21 through a credit or payment mechanism that does not relate to  
22 a service address, such as a bank, travel, debit, or credit  
23 card, and in the case of third-number and calling-card calls,  
24 the term "service address" means ~~is~~ the address of the central  
25 office, as determined by the area code and the first three  
26 digits of the seven-digit originating telephone number; ~~or~~<sup>7</sup>

27           3. If the location of the equipment described in  
28 subparagraph 1. is not known and subparagraph 2. is  
29 inapplicable, the term "service address" means the location of  
30 the customer's primary use of the communications service. For  
31 the purposes of this subparagraph, the location of the

1 customer's primary use of a communications service is the  
2 residential street address or the business street address of  
3 the customer.

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

6 206.09 Reports from carriers transporting motor fuel  
7 or similar products.--

8 (6) All moneys derived from the penalties imposed by  
9 this section shall be deposited into the Fuel Tax Collection  
10 Trust Fund, and allocated in the same manner as provided by s.  
11 206.875.

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

14 206.095 Reports from terminal operators.--

15 (4) All moneys derived from the penalties imposed by  
16 this section shall be deposited into the Fuel Tax Collection  
17 Trust Fund, and allocated in the same manner as provided by s.  
18 206.875.

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

21 206.14 Inspection of records; audits; hearings; forms;  
22 rules and regulations.--

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

29 206.27 Records and files as public records.--

30 (1) The records and files in the office of the  
31 department appertaining to parts I and II of this chapter

1 shall be available in Tallahassee to the public at any time  
2 during business hours. The department shall prepare and make  
3 available a list each month of all current licensed terminal  
4 suppliers, importers, exporters, and wholesalers which also  
5 shall include all new licenses issued and all licenses  
6 canceled during the past 12 months, ~~and mail a copy thereof to~~  
7 ~~each licensee~~. Such list shall be used to verify license  
8 numbers of purchasers issuing exemption certificates or  
9 affidavits.

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

12 206.485 Tracking system reporting requirements.--

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

17 Section 12. Paragraph (b) of subsection (4) of section  
18 212.0305, Florida Statutes, is amended to read:

19 212.0305 Convention development taxes; intent;  
20 administration; authorization; use of proceeds.--

21 (4) AUTHORIZATION TO LEVY; USE OF PROCEEDS; OTHER  
22 REQUIREMENTS.--

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

24 1. Each county, as defined in s. 125.011(1), may  
25 impose, under ~~pursuant to~~ an ordinance enacted by the  
26 governing body of the county, a levy on the exercise within  
27 its boundaries of the taxable privilege of leasing or letting  
28 transient rental accommodations described in subsection (3) at  
29 the rate of 3 percent of the total consideration charged  
30 therefor. The proceeds of this levy shall be known as the  
31 charter county convention development tax.

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

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

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

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

25           d. After completion of any project under  
26 sub-subparagraph b., the tax revenues and interest accrued  
27 under sub-subparagraph b. may be used, as determined by the  
28 county, to operate an authority created pursuant to  
29 subparagraph 4. or to acquire, construct, extend, enlarge,  
30 remodel, repair, improve, operate, or maintain one or more  
31 convention centers, stadiums, exhibition halls, arenas,

1 coliseums, auditoriums, golf courses, or related buildings and  
2 parking facilities in the most populous municipality in the  
3 county.

4 e. For the purposes of completion of any project  
5 pursuant to this paragraph, tax revenues and interest accrued  
6 may be used:

7 (I) As collateral, pledged, or hypothecated for  
8 projects authorized by this paragraph, including bonds issued  
9 in connection therewith; or

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

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

23 4.a. Before the county enacts an ordinance imposing  
24 the levy, the county shall notify the governing body of each  
25 municipality in which projects are to be developed pursuant to  
26 sub-subparagraph 2.a., sub-subparagraph 2.b., sub-subparagraph  
27 2.c., or sub-subparagraph 2.d. As a condition precedent to  
28 receiving funding, the governing bodies of such municipalities  
29 shall designate or appoint an authority that shall have the  
30 sole power to:

31

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

5 (II) Appoint and dismiss the authority's executive  
6 director, general counsel, and any other consultants retained  
7 by the authority. The governing body shall have the right to  
8 approve or disapprove the initial appointment of the  
9 authority's executive director and general counsel.

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

17 c. The authority, by resolution to be adopted from  
18 time to time, may invest and reinvest the proceeds from the  
19 convention development tax and any other revenues generated by  
20 the authority in the same manner that the municipality in  
21 which the authority is located may invest surplus funds.

22 5. The charter county convention development levy  
23 shall be in addition to any other levy imposed pursuant to  
24 this section.

25 6. A certified copy of the ordinance imposing the levy  
26 shall be furnished by the county to the department within 10  
27 days after approval of such ordinance. The effective date of  
28 imposition of the levy shall be the first day of any month at  
29 least 60 days after enactment of the ordinance.

30 7. Revenues collected pursuant to this paragraph shall  
31 be deposited in a convention development trust fund, which

1 shall be established by the county as a condition precedent to  
2 receipt of such funds.

3 Section 13. Paragraph (a) of subsection (1) of section  
4 212.05, Florida Statutes, is amended to read:

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

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

17 (a)1.

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

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

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

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

1 | entity's affairs who is a resident of, or makes his or her  
2 | permanent abode in, this state. For purposes of this  
3 | exemption, either a registered dealer acting on his or her own  
4 | behalf as seller, a registered dealer acting as broker on  
5 | behalf of a seller, or a registered dealer acting as broker on  
6 | behalf of the purchaser may be deemed to be the selling  
7 | dealer. This exemption shall not be allowed unless:

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

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

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

30 |         d. The selling dealer, within 5 days of the date of  
31 | sale, shall provide to the department a copy of the sales

1 invoice, closing statement, bills of sale, and the original  
2 affidavit signed by the purchaser attesting that he or she has  
3 read the provisions of this section;

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

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

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

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

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

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

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 aircraft ~~airplane~~ from this state within 10 days after  
31 purchase or, when the boat or aircraft ~~airplane~~ is repaired or

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

25 Section 14. Paragraph (e) of subsection (1) of section  
26 212.06, Florida Statutes, is amended to read:

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

30 (1)

31

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

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

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

1 taxability of any sale or use of the vessel subsequent to its  
2 importation under this provision.

3 Section 15. Present paragraph (e) of subsection (2) of  
4 section 212.12, Florida Statutes, is redesignated as paragraph  
5 (f), present paragraph (f) of that subsection is redesignated  
6 as paragraph (g) and amended, and a new paragraph (e) is added  
7 to that subsection, to read:

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

12 (2)

13 (e) A person who willfully attempts in any manner to  
14 evade any tax, surcharge, or fee imposed under this chapter or  
15 the payment thereof is, in addition to any other penalties  
16 provided by law, liable for a specific penalty in the amount  
17 of 100 percent of the tax, surcharge, or fee, and commits a  
18 felony of the third degree, punishable as provided in s.  
19 775.082, s. 775.083, or s. 775.084.

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

29 Section 16. Paragraph (1) of subsection (7) of section  
30 213.053, Florida Statutes, is amended to read:

31 213.053 Confidentiality and information sharing.--

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

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

9           Section 17. Subsection (10) of section 213.21, Florida  
10 Statutes, is amended to read:

11           213.21 Informal conferences; compromises.--

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

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

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

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

28           b. One noncompliant filing event in the immediately  
29 preceding 12-month period, resolution of the current  
30 noncompliant filing event through payment of tax and interest  
31 and the filing of a return within 30 days after notification

1 by the department, and no unresolved ~~chapter 212~~ liability  
2 under s. 125.0104, s. 125.0108, or chapter 212 resulting from  
3 a noncompliant filing event.

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

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

18 (d) For purposes of this subsection:

19 1. "Noncompliant filing event" means a failure to  
20 timely file a complete and accurate return required under s.  
21 125.0104, s. 125.0108, or chapter 212 or a failure to timely  
22 pay the amount of tax reported on a return required by s.  
23 125.0104, s. 125.0108, or chapter 212.

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

1 show that the principals of the business lacked actual  
2 knowledge of the noncompliance and that the noncompliance was  
3 resolved within 30 days after actual knowledge.

4 Section 18. The amendment to section 213.21(10),  
5 Florida Statutes, as made by this act, shall operate  
6 retroactively to July 1, 2003.

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

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

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

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

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

11 Section 20. Subsection (2) of section 215.26, Florida  
12 Statutes, is amended to read:

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

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

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

12 |         Section 21. Effective for policies issued or renewed  
13 | on or after January 1, 2006, section 252.372, Florida  
14 | Statutes, is amended to read:

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

1 Office, as created under s. 626.921, the surcharge must be  
2 remitted to the service office at the same time as the surplus  
3 lines tax is remitted. All penalties for failure to remit the  
4 surplus lines tax and service fee are applicable for those  
5 surcharges required to be remitted to the service office. The  
6 service office shall deposit all surcharges that it collects  
7 into the Emergency Management, Preparedness, and Assistance  
8 Trust Fund at least monthly. All proceeds of the surcharge  
9 shall be deposited in the Emergency Management, Preparedness,  
10 and Assistance Trust Fund and may not be used to supplant  
11 existing funding.

12           Section 22. Effective January 1, 2006, paragraph (e)  
13 of subsection (3) of section 443.131, Florida Statutes, is  
14 amended, present paragraphs (g), (h), (i), and (j) of that  
15 subsection are redesignated as paragraphs (h), (i), (j), and  
16 (k), respectively, and a new paragraph (g) is added to that  
17 subsection to read:

18           443.131 Contributions.--

19           (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT  
20 EXPERIENCE.--

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

22           1. The tax collection service provider shall assign a  
23 variation from the standard rate of contributions for each  
24 calendar year to each eligible employer. In determining the  
25 contribution rate, varying from the standard rate to be  
26 assigned each employer, adjustment factors computed under  
27 sub-subparagraphs a.-c. shall be added to the benefit ratio.  
28 This addition shall be accomplished in two steps by adding a  
29 variable adjustment factor and a final adjustment factor. The  
30 sum of these adjustment factors computed under  
31 sub-subparagraphs a.-c. shall first be algebraically summed.

1 | The sum of these adjustment factors shall next be divided by a  
2 | gross benefit ratio determined as follows: Total benefit  
3 | payments for the 3-year period described in subparagraph (b)2.  
4 | shall be charged to employers eligible for a variation from  
5 | the standard rate, minus excess payments for the same period,  
6 | divided by taxable payroll entering into the computation of  
7 | individual benefit ratios for the calendar year for which the  
8 | contribution rate is being computed. The ratio of the sum of  
9 | the adjustment factors computed under sub-subparagraphs a.-c.  
10 | to the gross benefit ratio shall be multiplied by each  
11 | individual benefit ratio that is less than the maximum  
12 | contribution rate to obtain variable adjustment factors;  
13 | except that in any instance in which the sum of an employer's  
14 | individual benefit ratio and variable adjustment factor  
15 | exceeds the maximum contribution rate, the variable adjustment  
16 | factor shall be reduced in order that the sum equals the  
17 | maximum contribution rate. The variable adjustment factor for  
18 | each of these employers is multiplied by his or her taxable  
19 | payroll entering into the computation of his or her benefit  
20 | ratio. The sum of these products shall be divided by the  
21 | taxable payroll of the employers who entered into the  
22 | computation of their benefit ratios. The resulting ratio shall  
23 | be subtracted from the sum of the adjustment factors computed  
24 | under sub-subparagraphs a.-c. to obtain the final adjustment  
25 | factor. The variable adjustment factors and the final  
26 | adjustment factor shall be computed to five decimal places and  
27 | rounded to the fourth decimal place. This final adjustment  
28 | factor shall be added to the variable adjustment factor and  
29 | benefit ratio of each employer to obtain each employer's  
30 | contribution rate. An employer's contribution rate may not,  
31 | however, be rounded to less than 0.1 percent.

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

17           b. An adjustment factor for excess payments shall be  
18 computed to the fifth decimal place, and rounded to the fourth  
19 decimal place by dividing the total excess payments during the  
20 3-year period described in subparagraph (b)2. by the taxable  
21 payroll of employers eligible for a variation from the  
22 standard rate who have a benefit ratio for the current year  
23 which is less than the maximum contribution rate. For purposes  
24 of computing this adjustment factor, the taxable payroll of  
25 these employers is the same figure used to compute the  
26 adjustment factor for noncharge benefits under  
27 sub-subparagraph a. As used in this sub-subparagraph, the term  
28 "excess payments" means the amount of benefits charged to the  
29 employment record of an employer during the 3-year period  
30 described in subparagraph (b)2., less the product of the  
31 maximum contribution rate and the employer's taxable payroll

1 for the 3 years ending June 30 of the current calendar year as  
2 reported to the tax collection service provider by September  
3 30 of the same calendar year. As used in this  
4 sub-subparagraph, the term "total excess payments" means the  
5 sum of the individual employer excess payments for those  
6 employers that were eligible to be considered for assignment  
7 of a contribution rate different ~~a variation~~ from the standard  
8 rate.

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

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

24       d. The maximum contribution rate that may be assigned  
25 to an employer is 5.4 percent, except employers participating  
26 in an approved short-time compensation plan may be assigned a  
27 maximum contribution rate that is 1 percent greater than the  
28 maximum contribution rate for other employers in any calendar  
29 year in which short-time compensation benefits are charged to  
30 the employer's employment record.

31

1           2. If the transfer of an employer's employment record  
2 to an employing unit under paragraph (f) which, before the  
3 transfer, was an employer, the tax collection service provider  
4 shall recompute a benefit ratio for the successor employer  
5 based on the combined employment records and reassign an  
6 appropriate contribution rate to the successor employer  
7 effective on the first day of the calendar quarter immediately  
8 after the effective date of the transfer.

9           (g) Notwithstanding any other provision of law, upon  
10 transfer or acquisition of a business, the following  
11 conditions apply to the assignment of rates and to transfers  
12 of unemployment experience:

13           1.a. If an employer transfers its trade or business,  
14 or a portion thereof, to another employer and, at the time of  
15 the transfer, there is any common ownership, management, or  
16 control of the two employers, the unemployment experience  
17 attributable to the transferred trade or business shall be  
18 transferred to the employer to whom the business is so  
19 transferred. The rates of both employers shall be  
20 recalculated and made effective as of the beginning of the  
21 calendar quarter immediately following the date of the  
22 transfer of the trade or business unless the transfer occurred  
23 on the first day of a calendar quarter, in which case the rate  
24 shall be recalculated as of that date.

25           b. If, following a transfer of experience under  
26 sub-subparagraph a., the Agency for Workforce Innovation or  
27 the tax collection service provider determines that a  
28 substantial purpose of the transfer of trade or business was  
29 to obtain a reduced liability for contributions, the  
30 experience rating account of the employers involved shall be  
31

1 combined into a single account and a single rate assigned to  
2 the account.

3 2. Whenever a person who is not at the time an  
4 employer under this chapter acquires the trade or business of  
5 an employer, the unemployment experience of the acquired  
6 business shall not be transferred to the person if the Agency  
7 for Workforce Innovation or the tax collection service  
8 provider finds that such person acquired the business solely  
9 or primarily for the purpose of obtaining a lower rate of  
10 contributions. Instead, such person shall be assigned the new  
11 employer rate under paragraph (2)(a). In determining whether  
12 the business was acquired solely or primarily for the purpose  
13 of obtaining a lower rate of contributions, the tax collection  
14 service provider shall consider:

15 a. Whether the person continued the business  
16 enterprise of the acquired business;

17 b. How long such business enterprise was continued; or

18 c. Whether a substantial number of new employees was  
19 hired for performance of duties unrelated to the business  
20 activity conducted before the acquisition.

21 3. If a person knowingly violates or attempts to  
22 violate subparagraph 1. or subparagraph 2. or any other  
23 provision of this chapter relating to determining the  
24 assignment of a contribution rate, or if a person knowingly  
25 advises another person to violate the law, the person shall be  
26 subject to the following penalties:

27 a. If the person is an employer, the employer shall be  
28 assigned the highest rate assignable under this chapter for  
29 the rate year during which such violation or attempted  
30 violation occurred and for the 3 rate years immediately  
31 following this rate year. However, if the person's business is

1 already at the highest rate for any year, or if the amount of  
2 increase in the person's rate would be less than 2 percent for  
3 such year, then a penalty rate of contribution of 2 percent of  
4 taxable wages shall be imposed for such year.

5 b. If the person is not an employer, the person shall  
6 be subject to a civil penalty of not more than \$5,000. The  
7 procedures for the assessment of a penalty shall be in  
8 accordance with the procedures set forth in s. 443.141(2), and  
9 the provisions of s. 443.141(3) shall apply to the collection  
10 of the penalty. Any such penalty shall be deposited in the  
11 penalty and interest account established under s. 443.211(2).

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

13 a. "Knowingly" means having actual knowledge of or  
14 acting with deliberate ignorance or reckless disregard for the  
15 prohibition involved.

16 b. "Violates or attempts to violate" includes, but is  
17 not limited to, intent to evade, misrepresent, or willfully  
18 nondisclose.

19 c. "Person" has the meaning given to the term by s.  
20 7701(a)(1) of the Internal Revenue Code of 1986.

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

23 5. In addition to the penalty imposed by subparagraph  
24 3., any person who violates this paragraph commits a felony of  
25 the third degree, punishable as provided in s. 775.082, s.  
26 775.083, or s. 775.084.

27 6. The Agency for Workforce Innovation and the tax  
28 collection service provider shall establish procedures to  
29 identify the transfer or acquisition of a business for the  
30 purposes of this paragraph and shall adopt any rules necessary  
31 to administer this paragraph.

1           7. This paragraph shall be interpreted and applied in  
2 such a manner as to meet the minimum requirements contained in  
3 any guidance or regulations issued by the United States  
4 Department of Labor.

5           Section 23. Paragraph (a) of subsection (2) and  
6 paragraph (a) of subsection (3) of section 443.141, Florida  
7 Statutes, are amended to read:

8           443.141 Collection of contributions and  
9 reimbursements.--

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

11           (a) Failure to make reports and pay contributions.--If  
12 an employing unit determined by the tax collection service  
13 provider to be an employer subject to this chapter fails to  
14 make and file any report as and when required by this chapter  
15 or by any rule of the Agency for Workforce Innovation or the  
16 state agency providing tax collection services, for the  
17 purpose of determining the amount of contributions due by the  
18 employer under this chapter, or if any filed report is found  
19 by the service provider to be incorrect or insufficient, and  
20 the employer, after being notified in writing by the service  
21 provider to file the report, or a corrected or sufficient  
22 report, as applicable, fails to file the report within 15 days  
23 after the date of the mailing of the notice, the tax  
24 collection service provider may:

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

28           2. Assess the employer the amount of contributions  
29 determined to be due; and

30           3. Immediately notify the employer by ~~registered or~~  
31 ~~certified~~ mail of the determination and assessment including

1 penalties as provided in this chapter, if any, added and  
2 assessed, and demand payment together with interest on the  
3 amount of contributions from the date that amount was due and  
4 payable.

5 (3) COLLECTION PROCEEDINGS.--

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

8 1. There is created a lien in favor of the tax  
9 collection service provider upon all the property, both real  
10 and personal, of any employer liable for payment of any  
11 contribution or reimbursement levied and imposed under this  
12 chapter for the amount of the contributions or reimbursements  
13 due, together with interest, costs, and penalties. If any  
14 contribution or reimbursement imposed under this chapter or  
15 any portion of that contribution, reimbursement, interest, or  
16 penalty is not paid within 60 days after becoming delinquent,  
17 the tax collection service provider may subsequently issue a  
18 notice of lien that may be filed in the office of the clerk of  
19 the circuit court of any county in which the delinquent  
20 employer owns property or has conducted business. The notice  
21 of lien must include the periods for which the contributions,  
22 reimbursements, interest, or penalties are demanded and the  
23 amounts due. A copy of the notice of lien must be mailed to  
24 the employer at her or his last known address ~~by registered~~  
25 ~~mail~~. The notice of lien may not be issued and recorded until  
26 15 days after the date the assessment becomes final under  
27 subsection (2). Upon presentation of the notice of lien, the  
28 clerk of the circuit court shall record it in a book  
29 maintained for that purpose, and the amount of the notice of  
30 lien, together with the cost of recording and interest  
31 accruing upon the amount of the contribution or reimbursement,

1 becomes a lien upon the title to and interest, whether legal  
2 or equitable, in any real property, chattels real, or personal  
3 property of the employer against whom the notice of lien is  
4 issued, in the same manner as a judgment of the circuit court  
5 docketed in the office of the circuit court clerk, with  
6 execution issued to the sheriff for levy. This lien is prior,  
7 preferred, and superior to all mortgages or other liens filed,  
8 recorded, or acquired after the notice of lien is filed. Upon  
9 the payment of the amounts due, or upon determination by the  
10 tax collection service provider that the notice of lien was  
11 erroneously issued, the lien is satisfied when the service  
12 provider acknowledges in writing that the lien is fully  
13 satisfied. A lien's satisfaction does not need to be  
14 acknowledged before any notary or other public officer, and  
15 the signature of the director of the tax collection service  
16 provider or his or her designee is conclusive evidence of the  
17 satisfaction of the lien, which satisfaction shall be recorded  
18 by the clerk of the circuit court who receives the fees for  
19 those services.

20           2. The tax collection service provider may  
21 subsequently issue a warrant directed to any sheriff in this  
22 state, commanding him or her to levy upon and sell any real or  
23 personal property of the employer liable for any amount under  
24 this chapter within his or her jurisdiction, for payment, with  
25 the added penalties and interest and the costs of executing  
26 the warrant, together with the costs of the clerk of the  
27 circuit court in recording and docketing the notice of lien,  
28 and to return the warrant to the service provider with  
29 payment. The warrant may only be issued and enforced for all  
30 amounts due to the tax collection service provider on the date  
31 the warrant is issued, together with interest accruing on the

1 contribution or reimbursement due from the employer to the  
2 date of payment at the rate provided in this section. In the  
3 event of sale of any assets of the employer, however,  
4 priorities under the warrant shall be determined in accordance  
5 with the priority established by any notices of lien filed by  
6 the tax collection service provider and recorded by the clerk  
7 of the circuit court. The sheriff shall execute the warrant in  
8 the same manner prescribed by law for executions issued by the  
9 clerk of the circuit court for judgments of the circuit court.  
10 The sheriff is entitled to the same fees for executing the  
11 warrant as for a writ of execution out of the circuit court,  
12 and these fees must be collected in the same manner.

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

15 624.50921 Adjustments.--

16 (1) If a taxpayer is required to amend its corporate  
17 income tax liability under chapter 220, or the taxpayer  
18 receives a refund of its workers' compensation administrative  
19 assessment paid under chapter 440, the taxpayer shall file an  
20 amended insurance premium tax return not later than 60 days  
21 after such an occurrence.

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

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

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

31

1 The amount of any proposed assessment set forth in such a  
2 notice of deficiency shall be limited to the amount of any  
3 deficiency resulting under this code from recomputation of the  
4 taxpayer's insurance premium tax and retaliatory tax for the  
5 taxable year after giving effect only to the change in  
6 corporate income tax paid and the change in the amount of the  
7 workers' compensation administrative assessment paid.  
8 Interest in accordance with s. 624.5092 is due on the amount  
9 of any deficiency from the date fixed for filing the original  
10 insurance premium tax return for the taxable year until the  
11 date of payment of the deficiency.

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

24 Section 25. Subsection (5) of section 624.509, Florida  
25 Statutes, is amended to read:

26 624.509 Premium tax; rate and computation.--

27 (5)

28 (a)1. There shall be allowed a credit against the net  
29 tax imposed by this section equal to 15 percent of the amount  
30 paid by an ~~the~~ insurer in salaries to employees located or  
31

1 based within this state and who are covered by the provisions  
2 of chapter 443.

3 2. As an alternative to the credit allowed in  
4 subparagraph 1., an affiliated group of corporations which  
5 includes at least one insurance company writing premiums in  
6 Florida may elect to take a credit against the net tax imposed  
7 by this section in an amount that may not exceed 15 percent of  
8 the salary of the employees of the affiliated group of  
9 corporations who perform insurance-related activities, are  
10 located or based within this state, and are covered by chapter  
11 443. For purposes of this subparagraph, the term "affiliated  
12 group of corporations" means two or more corporations that are  
13 entirely owned directly or indirectly by a single corporation  
14 and that constitute an affiliated group as defined in s.  
15 1504(a) of the Internal Revenue Code. The amount of credit  
16 allowed under this subparagraph is limited to the combined  
17 Florida salary tax credits allowed for all insurance companies  
18 that were members of the affiliated group of corporations for  
19 the tax year ending December 31, 2002, divided by the combined  
20 Florida taxable premiums written by all insurance companies  
21 that were members of the affiliated group of corporations for  
22 the tax year ending December 31, 2002, multiplied by the  
23 combined Florida taxable premiums of the affiliated group of  
24 corporations for the current year. An affiliated group of  
25 corporations electing this alternative calculation method must  
26 make such election on or before August 1, 2005. The election  
27 of this alternative calculation method is irrevocable and  
28 binding upon successors and assigns of the affiliated group of  
29 corporations electing this alternative. However, if a member  
30 of an affiliated group of corporations acquires or merges with  
31 another insurance company after the date of the irrevocable

1 election, the acquired or merged company is not entitled to  
2 the affiliated group election and shall only be entitled to  
3 calculate the tax credit under subparagraph 1.

4  
5 In no event shall the salary paid to an employee by an  
6 affiliated group of corporations be claimed as a credit by  
7 more than one insurer or be counted more than once in an  
8 insurer's calculation of the credit as described in  
9 subparagraph 1. or subparagraph 2. Only the portion of an  
10 employee's salary paid for the performance of  
11 insurance-related activities may be included in the  
12 calculation of the premium tax credit in this subsection.

13 (b) For purposes of this subsection:

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

16 2. ~~(b)~~ The term "employees" does not include  
17 independent contractors or any person whose duties require  
18 that the person hold a valid license under the Florida  
19 Insurance Code, except adjusters, managing general agents, and  
20 service representatives, as persons defined in s. 626.015 s-  
21 626.015(1), (14), and (16).

22 3. ~~(c)~~ The term "net tax" means the tax imposed by this  
23 section after applying the calculations and credits set forth  
24 in subsection (4).

25 4. ~~(d)~~ An affiliated group of corporations that created  
26 a service company within its affiliated group on July 30,  
27 2002, shall allocate the salary of each service company  
28 employee covered by contracts with affiliated group members to  
29 the companies for which the employees perform services. The  
30 salary allocation is based on the amount of time during the  
31 tax year that the individual employee spends performing

1 services or otherwise working for each company over the total  
2 amount of time the employee spends performing services or  
3 otherwise working for all companies. The total amount of  
4 salary allocated to an insurance company within the affiliated  
5 group shall be included as that insurer's employee salaries  
6 for purposes of this section.

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

12 ~~b.2.~~ The term "service company" means a separate  
13 corporation within the affiliated group of corporations whose  
14 employees provide services to affiliated group members and  
15 which are treated as service company employees for  
16 unemployment compensation and common law purposes. The holding  
17 company of an affiliated group may not qualify as a service  
18 company. An insurance company may not qualify as a service  
19 company.

20 ~~c.3.~~ If an insurance company fails to substantiate,  
21 whether by means of adequate records or otherwise, its  
22 eligibility to claim the service company exception under this  
23 section, or its salary allocation under this section, no  
24 credit shall be allowed.

25 (c) The department may adopt rules pursuant to ss.  
26 120.536(1) and 120.54 to administer this subsection.

27 Section 26. The intent of the revision to section  
28 624.509(5)(b), Florida Statutes, in section 25 is to clarify  
29 that adjusters, managing general agents, and service  
30 representatives, as defined in section 626.015, Florida  
31 Statutes, are considered employees for purposes of the salary

1 credit provided in section 626.509, Florida Statutes. The  
2 reference in section 624.509, Florida Statutes, to section  
3 626.015, Florida Statutes, was never intended to reference the  
4 definition of a "resident."

5 Section 27. Notwithstanding section 11 of chapter  
6 2000-312, Laws of Florida, section 213.21, Florida Statutes,  
7 shall not stand repealed on October 1, 2005, as scheduled by  
8 that law, but that section is revived and readopted.

9 Section 28. If a security agreement pledging  
10 condominium or homeowner association assessments or fees or  
11 club membership dues, fees, or assessments was recorded after  
12 April 15, 2000, and before April 10, 2005, with a clerk of the  
13 court, and if a Uniform Commercial Code financing statement  
14 was filed with the Secretary of State or the Florida Secured  
15 Transaction Registry with respect to such security agreement,  
16 the excise tax on documents under chapter 201, Florida  
17 Statutes, is not due solely as a result of the recording of  
18 the security agreement if an affidavit attesting that the  
19 security agreement was recorded in error or by mistake is  
20 filed or recorded with the clerk of the court.

21 Section 29. Except as otherwise expressly provided in  
22 this act, this act shall take effect July 1, 2005.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 2032

This committee substitute:

- o Provides a documentary stamp tax exemption for documents that were recorded in error between April 15, 2000 and before April 10, 2005.
- o Allows all Florida salaries paid to people providing insurance related services and employed by affiliates to be eligible for salary credits, subject to certain limitations.
- o Expands the authorized uses of convention development tax revenues to include the acquisition, construction, extension, enlargement, remodeling, repair, improvement, planning for, operation, management, or maintenance of golf courses.