

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

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; allowing a salary  
26 | credit for employees of a service company  
27 | subsidiary of a mutual insurance holding  
28 | company; providing an exception; authorizing  
29 | the department to adopt rules to administer  
30 | such a credit; providing an appropriation;  
31 | providing legislative intent regarding the

1 meaning of the term "employees" for purposes of  
 2 determining the salary credit against the  
 3 insurance premium tax; reviving and readopting  
 4 s. 213.21, F.S., relating to informal  
 5 conference procedures within the Department of  
 6 Revenue; exempting from the documentary stamp  
 7 tax certain security agreements recorded in  
 8 error or by mistake; creating s. 196.1999,  
 9 F.S.; providing retroactivity; providing an  
 10 exemption from ad valorem taxes for certain  
 11 space laboratories; repealing s. 196.1994,  
 12 F.S., which expired effective July 1, 2004, and  
 13 which provided an exemption from ad valorem  
 14 taxes for certain space laboratories; amending  
 15 s. 201.23, F.S.; defining the terms "banking  
 16 organization" and "international banking  
 17 transaction," relating to exemption from  
 18 certain excise taxes; providing effective  
 19 dates.

20  
 21 Be It Enacted by the Legislature of the State of Florida:

22  
 23 Section 1. Paragraph (a) of subsection (3) of section  
 24 95.091, Florida Statutes, is amended to read:

25 95.091 Limitation on actions to collect taxes.--

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

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

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

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

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

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

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

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

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

31

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:7

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 (b) of subsection (4) of section  
2 212.0305, Florida Statutes, is amended to read:

3           212.0305 Convention development taxes; intent;  
4 administration; authorization; use of proceeds.--

5           (4) AUTHORIZATION TO LEVY; USE OF PROCEEDS; OTHER  
6 REQUIREMENTS.--

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

8           1. Each county, as defined in s. 125.011(1), may  
9 impose, under ~~pursuant to~~ an ordinance enacted by the  
10 governing body of the county, a levy on the exercise within  
11 its boundaries of the taxable privilege of leasing or letting  
12 transient rental accommodations described in subsection (3) at  
13 the rate of 3 percent of the total consideration charged  
14 therefor. The proceeds of this levy shall be known as the  
15 charter county convention development tax.

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

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

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

26           c. After the completion of any project under  
27 sub-subparagraph a., the tax revenues and interest accrued  
28 under sub-subparagraph a. may be used to acquire, construct,  
29 extend, enlarge, remodel, repair, improve, plan for, operate,  
30 manage, or maintain one or more convention centers, stadiums,  
31 exhibition halls, arenas, coliseums, ~~or~~ auditoriums, or golf

1 courses, and may be used to acquire and construct an intercity  
2 light rail transportation system as described in the Light  
3 Rail Transit System Status Report to the Legislature dated  
4 April 1988, which shall provide a means to transport persons  
5 to and from the largest existing publicly owned convention  
6 center in the county and the hotels north of the convention  
7 center and to and from the downtown area of the most populous  
8 municipality in the county as determined by the county.

9 d. After completion of any project under  
10 sub-subparagraph b., the tax revenues and interest accrued  
11 under sub-subparagraph b. may be used, as determined by the  
12 county, to operate an authority created pursuant to  
13 subparagraph 4. or to acquire, construct, extend, enlarge,  
14 remodel, repair, improve, operate, or maintain one or more  
15 convention centers, stadiums, exhibition halls, arenas,  
16 coliseums, auditoriums, golf courses, or related buildings and  
17 parking facilities in the most populous municipality in the  
18 county.

19 e. For the purposes of completion of any project  
20 pursuant to this paragraph, tax revenues and interest accrued  
21 may be used:

22 (I) As collateral, pledged, or hypothecated for  
23 projects authorized by this paragraph, including bonds issued  
24 in connection therewith; or

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

29 3. The governing body of each municipality in which a  
30 municipal tourist tax is levied may adopt a resolution  
31 prohibiting imposition of the charter county convention

1 development levy within such municipality. If the governing  
2 body adopts such a resolution, the convention development levy  
3 shall be imposed by the county in all other areas of the  
4 county except such municipality. No funds collected pursuant  
5 to this paragraph may be expended in a municipality which has  
6 adopted such a resolution.

7 4.a. Before the county enacts an ordinance imposing  
8 the levy, the county shall notify the governing body of each  
9 municipality in which projects are to be developed pursuant to  
10 sub-subparagraph 2.a., sub-subparagraph 2.b., sub-subparagraph  
11 2.c., or sub-subparagraph 2.d. As a condition precedent to  
12 receiving funding, the governing bodies of such municipalities  
13 shall designate or appoint an authority that shall have the  
14 sole power to:

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

19 (II) Appoint and dismiss the authority's executive  
20 director, general counsel, and any other consultants retained  
21 by the authority. The governing body shall have the right to  
22 approve or disapprove the initial appointment of the  
23 authority's executive director and general counsel.

24 b. The members of each such authority shall serve for  
25 a term of not less than 1 year and shall be appointed by the  
26 governing body of such municipality. The annual budget of such  
27 authority shall be subject to approval of the governing body  
28 of the municipality. If the governing body does not approve  
29 the budget, the authority shall use as the authority's budget  
30 the previous fiscal year budget.

31

1           c. The authority, by resolution to be adopted from  
2 time to time, may invest and reinvest the proceeds from the  
3 convention development tax and any other revenues generated by  
4 the authority in the same manner that the municipality in  
5 which the authority is located may invest surplus funds.

6           5. The charter county convention development levy  
7 shall be in addition to any other levy imposed pursuant to  
8 this section.

9           6. A certified copy of the ordinance imposing the levy  
10 shall be furnished by the county to the department within 10  
11 days after approval of such ordinance. The effective date of  
12 imposition of the levy shall be the first day of any month at  
13 least 60 days after enactment of the ordinance.

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

18           Section 13. Paragraph (a) of subsection (1) of section  
19 212.05, Florida Statutes, is amended to read:

20           212.05 Sales, storage, use tax.--It is hereby declared  
21 to be the legislative intent that every person is exercising a  
22 taxable privilege who engages in the business of selling  
23 tangible personal property at retail in this state, including  
24 the business of making mail order sales, or who rents or  
25 furnishes any of the things or services taxable under this  
26 chapter, or who stores for use or consumption in this state  
27 any item or article of tangible personal property as defined  
28 herein and who leases or rents such property within the state.

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



1 (a)1.

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

7 b. Each occasional or isolated sale of an aircraft,  
8 boat, mobile home, or motor vehicle of a class or type which  
9 is required to be registered, licensed, titled, or documented  
10 in this state or by the United States Government shall be  
11 subject to tax at the rate provided in this paragraph. The  
12 department shall by rule adopt any nationally recognized  
13 publication for valuation of used motor vehicles as the  
14 reference price list for any used motor vehicle which is  
15 required to be licensed pursuant to s. 320.08(1), (2), (3)(a),  
16 (b), (c), or (e), or (9). If any party to an occasional or  
17 isolated sale of such a vehicle reports to the tax collector a  
18 sales price which is less than 80 percent of the average loan  
19 price for the specified model and year of such vehicle as  
20 listed in the most recent reference price list, the tax levied  
21 under this paragraph shall be computed by the department on  
22 such average loan price unless the parties to the sale have  
23 provided to the tax collector an affidavit signed by each  
24 party, or other substantial proof, stating the actual sales  
25 price. Any party to such sale who reports a sales price less  
26 than the actual sales price is guilty of a misdemeanor of the  
27 first degree, punishable as provided in s. 775.082 or s.  
28 775.083. The department shall collect or attempt to collect  
29 from such party any delinquent sales taxes. In addition, such  
30 party shall pay any tax due and any penalty and interest  
31 assessed plus a penalty equal to twice the amount of the

1 additional tax owed. Notwithstanding any other provision of  
2 law, the Department of Revenue may waive or compromise any  
3 penalty imposed pursuant to this subparagraph.

4         2. This paragraph does not apply to the sale of a boat  
5 or aircraft ~~airplane~~ by or through a registered dealer under  
6 this chapter to a purchaser who, at the time of taking  
7 delivery, is a nonresident of this state, does not make his or  
8 her permanent place of abode in this state, and is not engaged  
9 in carrying on in this state any employment, trade, business,  
10 or profession in which the boat or aircraft will be used in  
11 this state, or is a corporation none of the officers or  
12 directors of which is a resident of, or makes his or her  
13 permanent place of abode in, this state, or is a noncorporate  
14 entity that has no individual vested with authority to  
15 participate in the management, direction, or control of the  
16 entity's affairs who is a resident of, or makes his or her  
17 permanent abode in, this state. For purposes of this  
18 exemption, either a registered dealer acting on his or her own  
19 behalf as seller, a registered dealer acting as broker on  
20 behalf of a seller, or a registered dealer acting as broker on  
21 behalf of the purchaser may be deemed to be the selling  
22 dealer. This exemption shall not be allowed unless:

23         a. The purchaser removes a qualifying boat, as  
24 described in sub-subparagraph f., from the state within 90  
25 days after the date of purchase or the purchaser removes a  
26 nonqualifying boat or an aircraft ~~airplane~~ from this state  
27 within 10 days after the date of purchase or, when the boat or  
28 aircraft ~~airplane~~ is repaired or altered, within 20 days after  
29 completion of the repairs or alterations;

30         b. The purchaser, within 30 days from the date of  
31 departure, shall provide the department with written proof

1 that the purchaser licensed, registered, titled, or documented  
2 the boat or aircraft ~~airplane~~ outside the state. If such  
3 written proof is unavailable, within 30 days the purchaser  
4 shall provide proof that the purchaser applied for such  
5 license, title, registration, or documentation. The purchaser  
6 shall forward to the department proof of title, license,  
7 registration, or documentation upon receipt.

8 c. The purchaser, within 10 days of removing the boat  
9 or aircraft ~~airplane~~ from Florida, shall furnish the  
10 department with proof of removal in the form of receipts for  
11 fuel, dockage, slippage, tie-down, or hangaring from outside  
12 of Florida. The information so provided must clearly and  
13 specifically identify the boat or aircraft;

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

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

21 f. Unless the nonresident purchaser of a boat of 5 net  
22 tons of admeasurement or larger intends to remove the boat  
23 from this state within 10 days after the date of purchase or  
24 when the boat is repaired or altered, within 20 days after  
25 completion of the repairs or alterations, the nonresident  
26 purchaser shall apply to the selling dealer for a decal which  
27 authorizes 90 days after the date of purchase for removal of  
28 the boat. The department is authorized to issue decals in  
29 advance to dealers. The number of decals issued in advance to  
30 a dealer shall be consistent with the volume of the dealer's  
31 past sales of boats which qualify under this sub-subparagraph.

1 The selling dealer or his or her agent shall mark and affix  
2 the decals to qualifying boats in the manner prescribed by the  
3 department, prior to delivery of the boat.

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

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

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

12 (IV) The department is authorized to require dealers  
13 who purchase decals to file reports with the department and  
14 may prescribe all necessary records by rule. All such records  
15 are subject to inspection by the department.

16 (V) Any dealer or his or her agent who issues a decal  
17 falsely, fails to affix a decal, mismarks the expiration date  
18 of a decal, or fails to properly account for decals will be  
19 considered prima facie to have committed a fraudulent act to  
20 evade the tax and will be liable for payment of the tax plus a  
21 mandatory penalty of 200 percent of the tax, and shall be  
22 liable for fine and punishment as provided by law for a  
23 conviction of a misdemeanor of the first degree, as provided  
24 in s. 775.082 or s. 775.083.

25 (VI) Any nonresident purchaser of a boat who removes a  
26 decal prior to permanently removing the boat from the state,  
27 or defaces, changes, modifies, or alters a decal in a manner  
28 affecting its expiration date prior to its expiration, or who  
29 causes or allows the same to be done by another, will be  
30 considered prima facie to have committed a fraudulent act to  
31 evade the tax and will be liable for payment of the tax plus a

1 | mandatory penalty of 200 percent of the tax, and shall be  
2 | liable for fine and punishment as provided by law for a  
3 | conviction of a misdemeanor of the first degree, as provided  
4 | in s. 775.082 or s. 775.083.

5 |         (VII) The department is authorized to adopt rules  
6 | necessary to administer and enforce this subparagraph and to  
7 | publish the necessary forms and instructions.

8 |         (VIII) The department is hereby authorized to adopt  
9 | emergency rules pursuant to s. 120.54(4) to administer and  
10 | enforce the provisions of this subparagraph.

11 |  
12 | If the purchaser fails to remove the qualifying boat from this  
13 | state within 90 days after purchase or a nonqualifying boat or  
14 | an aircraft ~~airplane~~ from this state within 10 days after  
15 | purchase or, when the boat or aircraft ~~airplane~~ is repaired or  
16 | altered, within 20 days after completion of such repairs or  
17 | alterations, or permits the boat or aircraft ~~airplane~~ to  
18 | return to this state within 6 months from the date of  
19 | departure, or if the purchaser fails to furnish the department  
20 | with any of the documentation required by this subparagraph  
21 | within the prescribed time period, the purchaser shall be  
22 | liable for use tax on the cost price of the boat or aircraft  
23 | ~~airplane~~ and, in addition thereto, payment of a penalty to the  
24 | Department of Revenue equal to the tax payable. This penalty  
25 | shall be in lieu of the penalty imposed by s. 212.12(2) and is  
26 | mandatory and shall not be waived by the department. The  
27 | 90-day period following the sale of a qualifying boat tax  
28 | exempt to a nonresident may not be tolled for any reason.  
29 | Notwithstanding other provisions of this paragraph to the  
30 | contrary, an aircraft purchased in this state under the  
31 | provisions of this paragraph may be returned to this state for

1 repairs within 6 months after the date of its departure  
2 without being in violation of the law and without incurring  
3 liability for the payment of tax or penalty on the purchase  
4 price of the aircraft if the aircraft is removed from this  
5 state within 20 days after the completion of the repairs and  
6 if such removal can be demonstrated by invoices for fuel,  
7 tie-down, hangar charges issued by out-of-state vendors or  
8 suppliers, or similar documentation.

9 Section 14. Paragraph (e) of subsection (1) of section  
10 212.06, Florida Statutes, is amended to read:

11 212.06 Sales, storage, use tax; collectible from  
12 dealers; "dealer" defined; dealers to collect from purchasers;  
13 legislative intent as to scope of tax.--

14 (1)

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

31

1           2. The provisions of this paragraph do not apply to  
2 any vessel when used for transporting persons or goods for  
3 compensation; when offered, let, or rented to another for  
4 consideration; when offered for rent or hire as a means of  
5 transportation for compensation; or when offered or used to  
6 provide transportation for persons solicited through personal  
7 contact or through advertisement on a "share expense" basis.

8           3. Notwithstanding any other provision of this  
9 chapter, tax may not be imposed on any vessel imported into  
10 this state for the sole purpose of being offered for sale at  
11 retail by a yacht broker or yacht dealer registered in this  
12 state if the vessel remains under the care, custody, and  
13 control of the registered broker or dealer and the owner of  
14 the vessel does not make personal use of the vessel during  
15 that time. The provisions of this chapter govern the  
16 taxability of any sale or use of the vessel subsequent to its  
17 importation under this provision.

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

23           212.12 Dealer's credit for collecting tax; penalties  
24 for noncompliance; powers of Department of Revenue in dealing  
25 with delinquents; brackets applicable to taxable transactions;  
26 records required.--

27           (2)

28           (e) A person who willfully attempts in any manner to  
29 evade any tax, surcharge, or fee imposed under this chapter or  
30 the payment thereof is, in addition to any other penalties  
31 provided by law, liable for a specific penalty in the amount

1 of 100 percent of the tax, surcharge, or fee, and commits a  
 2 felony of the third degree, punishable as provided in s.  
 3 775.082, s. 775.083, or s. 775.084.

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

13 Section 16. Paragraph (1) of subsection (7) of section  
 14 213.053, Florida Statutes, is amended to read:

15 213.053 Confidentiality and information sharing.--

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

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

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

26 213.21 Informal conferences; compromises.--

27 (10)(a) ~~Effective July 1, 2003,~~ Notwithstanding any  
 28 other provision of law and solely for the purpose of  
 29 administering the taxes tax imposed by ss. 125.0104 and  
 30 125.0108, and chapter 212, except s. 212.0606, under the  
 31 circumstances set forth in this subsection, the department



1 shall settle or compromise a taxpayer's liability for penalty  
2 without requiring the taxpayer to submit a written request for  
3 compromise or settlement.

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

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

8 a. No noncompliant filing event in the immediately  
9 preceding 12-month period and no unresolved ~~chapter 212~~  
10 liability under s. 125.0104, s. 125.0108, or chapter 212  
11 resulting from a noncompliant filing event; or

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

19 2. If a taxpayer has two or more noncompliant filing  
20 events in the immediately preceding 12-month period, the  
21 taxpayer shall be liable, absent a showing by the taxpayer  
22 that the noncompliant filing event was due to extraordinary  
23 circumstances, for the penalties provided in s. 125.0104 or s.  
24 125.0108 and s. 212.12, including loss of collection  
25 allowance, and shall be reported to a credit bureau.

26 (c) For taxpayers who file returns and remit tax on a  
27 quarterly basis, any penalty related to a noncompliant filing  
28 event shall be settled or compromised if the taxpayer has no  
29 noncompliant filing event in the immediately preceding  
30 12-month period and no unresolved ~~chapter 212~~ liability under  
31

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

3 (d) For purposes of this subsection:

4 1. "Noncompliant filing event" means a failure to  
 5 timely file a complete and accurate return required under s.  
 6 125.0104, s. 125.0108, or chapter 212 or a failure to timely  
 7 pay the amount of tax reported on a return required by s.  
 8 125.0104, s. 125.0108, or chapter 212.

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

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

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

25 213.27 Contracts with debt collection agencies and  
 26 certain vendors.--

27 (1) The Department of Revenue may, for the purpose of  
 28 collecting any delinquent taxes due from a taxpayer, including  
 29 taxes for which a bill or notice has been generated, contract  
 30 with any debt collection agency or attorney doing business  
 31 within or without this state for the collection of such

1 delinquent taxes including penalties and interest thereon. The  
2 department may also share confidential information pursuant to  
3 the contract necessary for the collection of delinquent taxes  
4 and taxes for which a billing or notice has been generated.  
5 Contracts will be made pursuant to chapter 287. The taxpayer  
6 must be notified by mail by the department, its employees, or  
7 its authorized representative at least 30 days prior to  
8 commencing any litigation to recover any delinquent taxes. The  
9 taxpayer must be notified by mail by the department at least  
10 30 days prior to the initial assignment by the department of  
11 the taxpayer's account for ~~assigning~~ the collection of any  
12 taxes by ~~to~~ the debt collection agency.

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

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

29 215.26 Repayment of funds paid into State Treasury  
30 through error.--

31

1           (2) Application for refunds as provided by this  
2 section must be filed with the Chief Financial Officer, except  
3 as otherwise provided in this subsection, within 3 years after  
4 the right to the refund has accrued or else the right is  
5 barred. Except as provided in chapter 198, ~~and~~ s. 220.23, and  
6 s. 624.50921, an application for a refund of a tax enumerated  
7 in s. 72.011, which tax was paid after September 30, 1994, and  
8 before July 1, 1999, must be filed with the Chief Financial  
9 Officer within 5 years after the date the tax is paid, and  
10 within 3 years after the date the tax was paid for taxes paid  
11 on or after July 1, 1999. The Chief Financial Officer may  
12 delegate the authority to accept an application for refund to  
13 any state agency, or the judicial branch, vested by law with  
14 the responsibility for the collection of any tax, license, or  
15 account due. The application for refund must be on a form  
16 approved by the Chief Financial Officer and must be  
17 supplemented with additional proof the Chief Financial Officer  
18 deems necessary to establish the claim; provided, the claim is  
19 not otherwise barred under the laws of this state. Upon  
20 receipt of an application for refund, the judicial branch or  
21 the state agency to which the funds were paid shall make a  
22 determination of the amount due. If an application for refund  
23 is denied, in whole or in part, the judicial branch or such  
24 state agency shall notify the applicant stating the reasons  
25 therefor. Upon approval of an application for refund, the  
26 judicial branch or such state agency shall furnish the Chief  
27 Financial Officer with a properly executed voucher authorizing  
28 payment.

29           Section 21. Effective for policies issued or renewed  
30 on or after January 1, 2006, section 252.372, Florida  
31 Statutes, is amended to read:

1           252.372 Imposition and collection of surcharge.--In  
2 order to provide funds for emergency management, preparedness,  
3 and assistance, an annual surcharge of \$2 per policy shall be  
4 imposed on every homeowner's, mobile home owner's, tenant  
5 homeowner's, and condominium unit owner's policy, and an  
6 annual \$4 surcharge shall be imposed on every commercial fire,  
7 commercial multiple peril, and business owner's property  
8 insurance policy, issued or renewed on or after May 1, 1993.  
9 The surcharge shall be paid by the policyholder to the  
10 insurer. The insurer shall collect the surcharge and remit it  
11 to the Department of Revenue, which shall collect, administer,  
12 audit, and enforce the surcharge pursuant to s. 624.5092. The  
13 surcharge is not to be considered premiums of the insurer;  
14 however, nonpayment of the surcharge by the insured may be a  
15 valid reason for cancellation of the policy. For those  
16 policies in which the surplus lines tax and the service fee  
17 are collected and remitted to the Surplus Lines Service  
18 Office, as created under s. 626.921, the surcharge must be  
19 remitted to the service office at the same time as the surplus  
20 lines tax is remitted. All penalties for failure to remit the  
21 surplus lines tax and service fee are applicable for those  
22 surcharges required to be remitted to the service office. The  
23 service office shall deposit all surcharges that it collects  
24 into the Emergency Management, Preparedness, and Assistance  
25 Trust Fund at least monthly. All proceeds of the surcharge  
26 shall be deposited in the Emergency Management, Preparedness,  
27 and Assistance Trust Fund and may not be used to supplant  
28 existing funding.

29           Section 22. Effective January 1, 2006, paragraph (e)  
30 of subsection (3) of section 443.131, Florida Statutes, is  
31 amended, present paragraphs (g), (h), (i), and (j) of that

1 subsection are redesignated as paragraphs (h), (i), (j), and  
2 (k), respectively, and a new paragraph (g) is added to that  
3 subsection to read:

4 443.131 Contributions.--

5 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT  
6 EXPERIENCE.--

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

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

1 exceeds the maximum contribution rate, the variable adjustment  
2 factor shall be reduced in order that the sum equals the  
3 maximum contribution rate. The variable adjustment factor for  
4 each of these employers is multiplied by his or her taxable  
5 payroll entering into the computation of his or her benefit  
6 ratio. The sum of these products shall be divided by the  
7 taxable payroll of the employers who entered into the  
8 computation of their benefit ratios. The resulting ratio shall  
9 be subtracted from the sum of the adjustment factors computed  
10 under sub-subparagraphs a.-c. to obtain the final adjustment  
11 factor. The variable adjustment factors and the final  
12 adjustment factor shall be computed to five decimal places and  
13 rounded to the fourth decimal place. This final adjustment  
14 factor shall be added to the variable adjustment factor and  
15 benefit ratio of each employer to obtain each employer's  
16 contribution rate. An employer's contribution rate may not,  
17 however, be rounded to less than 0.1 percent.

18 a. An adjustment factor for noncharge benefits shall  
19 be computed to the fifth decimal place and rounded to the  
20 fourth decimal place by dividing the amount of noncharge  
21 benefits during the 3-year period described in subparagraph  
22 (b)2. by the taxable payroll of employers eligible for a  
23 variation from the standard rate who have a benefit ratio for  
24 the current year which is less than the maximum contribution  
25 rate. For purposes of computing this adjustment factor, the  
26 taxable payroll of these employers is the taxable payrolls for  
27 the 3 years ending June 30 of the current calendar year as  
28 reported to the tax collection service provider by September  
29 30 of the same calendar year. As used in this  
30 sub-subparagraph, the term "noncharge benefits" means benefits  
31 paid to an individual from the Unemployment Compensation Trust

1 Fund, but which were not charged to the employment record of  
2 any employer.

3       b. An adjustment factor for excess payments shall be  
4 computed to the fifth decimal place, and rounded to the fourth  
5 decimal place by dividing the total excess payments during the  
6 3-year period described in subparagraph (b)2. by the taxable  
7 payroll of employers eligible for a variation from the  
8 standard rate who have a benefit ratio for the current year  
9 which is less than the maximum contribution rate. For purposes  
10 of computing this adjustment factor, the taxable payroll of  
11 these employers is the same figure used to compute the  
12 adjustment factor for noncharge benefits under  
13 sub-subparagraph a. As used in this sub-subparagraph, the term  
14 "excess payments" means the amount of benefits charged to the  
15 employment record of an employer during the 3-year period  
16 described in subparagraph (b)2., less the product of the  
17 maximum contribution rate and the employer's taxable payroll  
18 for the 3 years ending June 30 of the current calendar year as  
19 reported to the tax collection service provider by September  
20 30 of the same calendar year. As used in this  
21 sub-subparagraph, the term "total excess payments" means the  
22 sum of the individual employer excess payments for those  
23 employers that were eligible to be considered for assignment  
24 of a contribution rate different ~~a variation~~ from the standard  
25 rate.

26       c. If the balance of the Unemployment Compensation  
27 Trust Fund on June 30 of the calendar year immediately  
28 preceding the calendar year for which the contribution rate is  
29 being computed is less than 3.7 percent of the taxable  
30 payrolls for the year ending June 30 as reported to the tax  
31 collection service provider by September 30 of that calendar



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

1 the total taxable payrolls of that year. The negative  
2 adjustment factor remains in effect for subsequent years until  
3 the balance of the Unemployment Compensation Trust Fund as of  
4 June 30 of the year immediately preceding the effective date  
5 of the contribution rate is less than 4.7 percent, but more  
6 than 3.7 percent of the taxable payrolls for the year ending  
7 June 30 of the current calendar year as reported to the tax  
8 collection service provider by September 30 of that calendar  
9 year.

10 d. The maximum contribution rate that may be assigned  
11 to an employer is 5.4 percent, except employers participating  
12 in an approved short-time compensation plan may be assigned a  
13 maximum contribution rate that is 1 percent greater than the  
14 maximum contribution rate for other employers in any calendar  
15 year in which short-time compensation benefits are charged to  
16 the employer's employment record.

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

25 (g) Notwithstanding any other provision of law, upon  
26 transfer or acquisition of a business, the following  
27 conditions apply to the assignment of rates and to transfers  
28 of unemployment experience:

29 1.a. If an employer transfers its trade or business,  
30 or a portion thereof, to another employer and, at the time of  
31 the transfer, there is any common ownership, management, or

1 control of the two employers, the unemployment experience  
2 attributable to the transferred trade or business shall be  
3 transferred to the employer to whom the business is so  
4 transferred. The rates of both employers shall be  
5 recalculated and made effective as of the beginning of the  
6 calendar quarter immediately following the date of the  
7 transfer of the trade or business unless the transfer occurred  
8 on the first day of a calendar quarter, in which case the rate  
9 shall be recalculated as of that date.

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

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

30 a. Whether the person continued the business  
31 enterprise of the acquired business;

1           b. How long such business enterprise was continued; or  
2           c. Whether a substantial number of new employees was  
3 hired for performance of duties unrelated to the business  
4 activity conducted before the acquisition.

5           3. If a person knowingly violates or attempts to  
6 violate subparagraph 1. or subparagraph 2. or any other  
7 provision of this chapter relating to determining the  
8 assignment of a contribution rate, or if a person knowingly  
9 advises another person to violate the law, the person shall be  
10 subject to the following penalties:

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

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

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

28           a. "Knowingly" means having actual knowledge of or  
29 acting with deliberate ignorance or reckless disregard for the  
30 prohibition involved.

31

1           b. "Violates or attempts to violate" includes, but is  
2 not limited to, intent to evade, misrepresent, or willfully  
3 nondisclose.

4           c. "Person" has the meaning given to the term by s.  
5 7701(a)(1) of the Internal Revenue Code of 1986.

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

8           5. In addition to the penalty imposed by subparagraph  
9 3., any person who violates this paragraph commits a felony of  
10 the third degree, punishable as provided in s. 775.082, s.  
11 775.083, or s. 775.084.

12           6. The Agency for Workforce Innovation and the tax  
13 collection service provider shall establish procedures to  
14 identify the transfer or acquisition of a business for the  
15 purposes of this paragraph and shall adopt any rules necessary  
16 to administer this paragraph.

17           7. This paragraph shall be interpreted and applied in  
18 such a manner as to meet the minimum requirements contained in  
19 any guidance or regulations issued by the United States  
20 Department of Labor.

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

24           443.141 Collection of contributions and  
25 reimbursements.--

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

27           (a) Failure to make reports and pay contributions.--If  
28 an employing unit determined by the tax collection service  
29 provider to be an employer subject to this chapter fails to  
30 make and file any report as and when required by this chapter  
31 or by any rule of the Agency for Workforce Innovation or the

1 state agency providing tax collection services, for the  
2 purpose of determining the amount of contributions due by the  
3 employer under this chapter, or if any filed report is found  
4 by the service provider to be incorrect or insufficient, and  
5 the employer, after being notified in writing by the service  
6 provider to file the report, or a corrected or sufficient  
7 report, as applicable, fails to file the report within 15 days  
8 after the date of the mailing of the notice, the tax  
9 collection service provider may:

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

13 2. Assess the employer the amount of contributions  
14 determined to be due; and

15 3. Immediately notify the employer by ~~registered or~~  
16 ~~certified~~ mail of the determination and assessment including  
17 penalties as provided in this chapter, if any, added and  
18 assessed, and demand payment together with interest on the  
19 amount of contributions from the date that amount was due and  
20 payable.

21 (3) COLLECTION PROCEEDINGS.--

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

24 1. There is created a lien in favor of the tax  
25 collection service provider upon all the property, both real  
26 and personal, of any employer liable for payment of any  
27 contribution or reimbursement levied and imposed under this  
28 chapter for the amount of the contributions or reimbursements  
29 due, together with interest, costs, and penalties. If any  
30 contribution or reimbursement imposed under this chapter or  
31 any portion of that contribution, reimbursement, interest, or

1 penalty is not paid within 60 days after becoming delinquent,  
2 the tax collection service provider may subsequently issue a  
3 notice of lien that may be filed in the office of the clerk of  
4 the circuit court of any county in which the delinquent  
5 employer owns property or has conducted business. The notice  
6 of lien must include the periods for which the contributions,  
7 reimbursements, interest, or penalties are demanded and the  
8 amounts due. A copy of the notice of lien must be mailed to  
9 the employer at her or his last known address ~~by registered~~  
10 ~~mail~~. The notice of lien may not be issued and recorded until  
11 15 days after the date the assessment becomes final under  
12 subsection (2). Upon presentation of the notice of lien, the  
13 clerk of the circuit court shall record it in a book  
14 maintained for that purpose, and the amount of the notice of  
15 lien, together with the cost of recording and interest  
16 accruing upon the amount of the contribution or reimbursement,  
17 becomes a lien upon the title to and interest, whether legal  
18 or equitable, in any real property, chattels real, or personal  
19 property of the employer against whom the notice of lien is  
20 issued, in the same manner as a judgment of the circuit court  
21 docketed in the office of the circuit court clerk, with  
22 execution issued to the sheriff for levy. This lien is prior,  
23 preferred, and superior to all mortgages or other liens filed,  
24 recorded, or acquired after the notice of lien is filed. Upon  
25 the payment of the amounts due, or upon determination by the  
26 tax collection service provider that the notice of lien was  
27 erroneously issued, the lien is satisfied when the service  
28 provider acknowledges in writing that the lien is fully  
29 satisfied. A lien's satisfaction does not need to be  
30 acknowledged before any notary or other public officer, and  
31 the signature of the director of the tax collection service

1 provider or his or her designee is conclusive evidence of the  
2 satisfaction of the lien, which satisfaction shall be recorded  
3 by the clerk of the circuit court who receives the fees for  
4 those services.

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

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

31           624.50921 Adjustments.--



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

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

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

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

16  
17 The amount of any proposed assessment set forth in such a  
18 notice of deficiency shall be limited to the amount of any  
19 deficiency resulting under this code from recomputation of the  
20 taxpayer's insurance premium tax and retaliatory tax for the  
21 taxable year after giving effect only to the change in  
22 corporate income tax paid and the change in the amount of the  
23 workers' compensation administrative assessment paid.

24 Interest in accordance with s. 624.5092 is due on the amount  
25 of any deficiency from the date fixed for filing the original  
26 insurance premium tax return for the taxable year until the  
27 date of payment of the deficiency.

28       (3) If an amended insurance premium tax return is  
29 required by subsection (1), a claim for refund may be filed  
30 within 2 years after the date on which the amended insurance  
31 premium tax return was due, regardless of whether such notice

1 was given, notwithstanding any other provision of s. 215.26.  
 2 However, the amount recoverable pursuant to such a claim shall  
 3 be limited to the amount of any overpayment resulting under  
 4 this code from recomputation of the taxpayer's insurance  
 5 premium tax and retaliatory tax for the taxable year after  
 6 giving effect only to the change in corporate income tax paid  
 7 and the change in the amount of the workers' compensation  
 8 administrative assessment paid.

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

11 624.509 Premium tax; rate and computation.--

12 (5)

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

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

1 Florida salary tax credits allowed for all insurance companies  
2 that were members of the affiliated group of corporations for  
3 the tax year ending December 31, 2002, divided by the combined  
4 Florida taxable premiums written by all insurance companies  
5 that were members of the affiliated group of corporations for  
6 the tax year ending December 31, 2002, multiplied by the  
7 combined Florida taxable premiums of the affiliated group of  
8 corporations for the current year. An affiliated group of  
9 corporations electing this alternative calculation method must  
10 make such election on or before August 1, 2005. The election  
11 of this alternative calculation method is irrevocable and  
12 binding upon successors and assigns of the affiliated group of  
13 corporations electing this alternative. However, if a member  
14 of an affiliated group of corporations acquires or merges with  
15 another insurance company after the date of the irrevocable  
16 election, the acquired or merged company is not entitled to  
17 the affiliated group election and shall only be entitled to  
18 calculate the tax credit under subparagraph 1.

19  
20 In no event shall the salary paid to an employee by an  
21 affiliated group of corporations be claimed as a credit by  
22 more than one insurer or be counted more than once in an  
23 insurer's calculation of the credit as described in  
24 subparagraph 1. or subparagraph 2. Only the portion of an  
25 employee's salary paid for the performance of  
26 insurance-related activities may be included in the  
27 calculation of the premium tax credit in this subsection.

28 (b) For purposes of this subsection:

29 1. (a) The term "salaries" does not include amounts  
30 paid as commissions.

31

1           ~~2.(b)~~ The term "employees" does not include  
 2 independent contractors or any person whose duties require  
 3 that the person hold a valid license under the Florida  
 4 Insurance Code, except adjusters, managing general agents, and  
 5 service representatives, as persons defined in s. 626.015 ~~s.~~  
 6 ~~626.015(1), (14), and (16).~~

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

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

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

28           ~~b.2.~~ The term "service company" means a separate  
 29 corporation within the affiliated group of corporations whose  
 30 employees provide services to affiliated group members and  
 31 which are treated as service company employees for

1 unemployment compensation and common law purposes. The holding  
2 company of an affiliated group may not qualify as a service  
3 company. An insurance company may not qualify as a service  
4 company.

5 ~~c.3.~~ If an insurance company fails to substantiate,  
6 whether by means of adequate records or otherwise, its  
7 eligibility to claim the service company exception under this  
8 section, or its salary allocation under this section, no  
9 credit shall be allowed.

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

28 a. The term "mutual insurance holding company system"  
29 means two or more corporations that are subsidiaries of a  
30 mutual insurance holding company and in compliance with part  
31 IV of chapter 628.

1           b. The term "service company" means a separate  
2 corporation within the mutual insurance holding company system  
3 whose employees provide services to other members of the  
4 mutual insurance holding company system and are treated as  
5 service company employees for unemployment compensation and  
6 common-law purposes. The mutual insurance holding company may  
7 not qualify as a service company.

8           c. If an insurance company fails to substantiate,  
9 whether by means of adequate records or otherwise, its  
10 eligibility to claim the service company exception under this  
11 section, or its salary allocation under this section, no  
12 credit shall be allowed.

13           (c) The department may adopt rules pursuant to ss.  
14 120.536(1) and 120.54 to administer this subsection.

15           Section 26. The sum of \$2.6 million is appropriated  
16 from the Workers' Compensation Administration Trust Fund to  
17 the General Revenue Fund for the 2005-2006 fiscal year.

18           Section 27. The intent of the revision to section  
19 624.509(5)(b), Florida Statutes, in section 25 is to clarify  
20 that adjusters, managing general agents, and service  
21 representatives, as defined in section 626.015, Florida  
22 Statutes, are considered employees for purposes of the salary  
23 credit provided in section 626.509, Florida Statutes. The  
24 reference in section 624.509, Florida Statutes, to section  
25 626.015, Florida Statutes, was never intended to reference the  
26 definition of a "resident."

27           Section 28. Notwithstanding section 11 of chapter  
28 2000-312, Laws of Florida, section 213.21, Florida Statutes,  
29 shall not stand repealed on October 1, 2005, as scheduled by  
30 that law, but that section is revived and readopted.

31

1           Section 29. If a security agreement pledging  
2 condominium or homeowner association assessments or fees or  
3 club membership dues, fees, or assessments was recorded after  
4 April 15, 2000, and before April 10, 2005, with a clerk of the  
5 court, and if a Uniform Commercial Code financing statement  
6 was filed with the Secretary of State or the Florida Secured  
7 Transaction Registry with respect to such security agreement,  
8 the excise tax on documents under chapter 201, Florida  
9 Statutes, is not due solely as a result of the recording of  
10 the security agreement if an affidavit attesting that the  
11 security agreement was recorded in error or by mistake is  
12 filed or recorded with the clerk of the court.

13           Section 30. Retroactive to January 1, 2005, section  
14 196.1999, Florida Statutes, is created to read:

15           196.1999 Space laboratories and carriers;  
16 exemption.--Notwithstanding other provisions of this chapter,  
17 a module, pallet, rack, locker, and any necessary associated  
18 hardware and subsystem owned by any person and intended to be  
19 used to transport or store cargo used for a space laboratory  
20 for the primary purpose of conducting scientific research in  
21 space is deemed to carry out a scientific purpose and is  
22 exempt from ad valorem taxation.

23           Section 31. Section 196.1994, Florida Statutes, is  
24 repealed.

25           Section 32. Subsection (4) of section 201.23, Florida  
26 Statutes, is amended to read:

27           201.23 Foreign notes and other written obligations  
28 exempt.--

29           (4)(a) The excise taxes imposed by this chapter shall  
30 not apply to the documents, notes, evidences of indebtedness,  
31 financing statements, drafts, bills of exchange, or other

1 taxable items dealt with, made, issued, drawn upon, accepted,  
2 delivered, shipped, received, signed, executed, assigned,  
3 transferred, or sold by or to a banking organization, ~~as~~  
4 ~~defined in s. 199.023(9)~~, in the conduct of an international  
5 banking transaction, ~~as defined in s. 199.023(11)~~. Nothing in  
6 this subsection shall be construed to change the application  
7 of paragraph (2)(a).

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

9 1. "Banking organization" means:

10 a. A bank organized and existing under the laws of any  
11 state;

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

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

18 d. An international bank agency licensed pursuant to  
19 the laws of any state;

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

22 f. A savings association organized and existing under  
23 the laws of any state;

24 g. A federal association organized and existing  
25 pursuant to the provisions of the Home Owners' Loan Act of  
26 1933, 12 U.S.C. ss. 1461 et seq.; or

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

29 2. "International banking transaction" means:

30  
31



1           a. The financing of the exportation from, or the  
2 importation into, the United States or between jurisdictions  
3 abroad of tangible personal property or services;

4           b. The financing of the production, preparation,  
5 storage, or transportation of tangible personal property or  
6 services which are identifiable as being directly and solely  
7 for export from, or import into, the United States or between  
8 jurisdictions abroad;

9           c. The financing of contracts, projects, or activities  
10 to be performed substantially abroad, except those  
11 transactions secured by a mortgage, deed of trust, or other  
12 lien upon real property located in the state;

13           d. The receipt of deposits or borrowings or the  
14 extensions of credit by an international banking facility,  
15 except the loan or deposit of funds secured by mortgage, deed  
16 of trust, or other lien upon real property located in the  
17 state; or

18           e. Entering into foreign exchange trading or hedging  
19 transactions in connection with the activities described in  
20 sub-subparagraph d.

21           Section 33. Except as otherwise expressly provided in  
22 this act, this act shall take effect July 1, 2005.

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