

1 A bill to be entitled
2 An act relating to the tax on sales, use, and other
3 transactions; amending s. 212.02, F.S.; redefining the
4 terms "lease," "let," "rental," "sales price," and
5 "tangible personal property" and defining the terms
6 "agent," "seller," "certified service provider," "direct
7 mail," "prewritten computer software," and "delivery
8 charges" for purposes of sales and use taxes; providing
9 applicability; amending s. 212.05, F.S.; deleting
10 provisions relating to the rental or lease of motor
11 vehicles; providing for determination of the location of
12 the sale or recharge of prepaid calling arrangements;
13 amending s. 212.054, F.S.; providing the time for applying
14 changes in local option tax rates; providing guidelines
15 for determining the situs of certain transactions;
16 providing for notice of a change in a local option sales
17 tax rate; providing for applicability of s. 202.22(2),
18 F.S., relating to determination of local tax situs, for
19 the purpose of providing and maintaining a database of
20 sales and use tax rates for local jurisdictions; amending
21 s. 212.0596, F.S.; deleting the exemption from collecting
22 and remitting any local option surtax for certain dealers
23 who make mail order sales; amending s. 212.06, F.S.;
24 defining terms; providing general rules for determining
25 the location of transactions involving the retail sale of
26 tangible personal property, digital goods, or services and
27 for the lease or rental of tangible personal property;
28 requiring certain business purchasers to obtain multiple

29 points of use exemption forms; providing for use of such
30 forms; requiring certain purchasers of direct mail to
31 obtain a direct mail form; providing for the use of such
32 form; amending s. 212.08, F.S., relating to exemptions
33 from the sales and use tax; defining and redefining terms
34 used with respect to the exemption for general groceries;
35 defining and redefining terms used with respect to the
36 exemption for medical products and supplies; revising that
37 exemption; amending s. 212.095, F.S.; revising provisions
38 relating to refunds; creating s. 212.094, F.S.; providing
39 that a purchaser seeking a refund or credit under ch. 212,
40 F.S., must submit a written request for the refund or
41 credit; providing a time period within which the dealer
42 shall respond to the written request; amending s. 212.17,
43 F.S.; prescribing additional guidelines and procedures
44 with respect to dealer credits for taxes paid on worthless
45 accounts; creating s. 213.052, F.S.; providing for notice
46 of state sales or use tax rate changes; creating s.
47 213.0521, F.S.; providing the effective date for state
48 sales and use tax rate changes; amending s. 213.21, F.S.;
49 providing for amnesty to certain sellers for uncollected
50 or unpaid sales and use taxes; amending s. 213.256, F.S.,
51 relating to simplified sales and use tax administration;
52 defining terms; providing that authority to administer the
53 Streamlined Sales and Use Tax Agreement rests with a
54 governing board comprised of representatives of member
55 states; providing for continuing effect of the agreement;
56 authorizing sanctions for noncompliance by a member state;

57 providing for annual recertification by member states;
58 creating s. 213.2567, F.S.; providing for the registration
59 of sellers, the certification of a person as a certified
60 service provider, and the certification of a software
61 program as a certified automated system by the governing
62 board under the Streamlined Sales and Use Tax Agreement;
63 amending ss. 212.055, 212.07, 212.15, and 212.183, F.S.;
64 conforming cross references; declaring legislative intent;
65 providing for the adoption of emergency rules; requiring
66 the Revenue Estimating Conference to determine net
67 increases in sales and use taxes under the agreement;
68 providing for deposit of such net increases into the
69 Working Capital Fund and appropriations of such funds;
70 specifying uses of such net increases under certain
71 circumstances; providing for reductions by the Legislature
72 in the sales and use tax under certain circumstances;
73 providing for subsequent transfers of net increases in the
74 sales and use tax, appropriations of such funds, and
75 further reductions in the sales and use tax under certain
76 circumstances; providing an effective date.

77
78 WHEREAS, it is the intent of the Legislature to ensure
79 fairness and equity in Florida's tax laws and policies, and

80 WHEREAS, joining the Streamlined Sales and Use Tax
81 Agreement will provide fairness and equity among taxpayers as
82 well as reduce the burden on businesses that must collect sales
83 tax for the state, and

84 WHEREAS, joining the Streamlined Sales and Use Tax

85 Agreement may provide the state with additional revenues, and
 86 WHEREAS, the Legislature desires whenever possible to
 87 reduce the tax burden of the citizens of the state by lowering
 88 tax rates, and

89 WHEREAS, the Legislature desires to have economic stability
 90 for the state's budget during economic cycles, and

91 WHEREAS, the Legislature desires that the revenue
 92 implications of this act are intended to promote fairness by
 93 broadening the tax base, increasing enforcement mechanisms, and
 94 lowering the tax rate, NOW, THEREFORE,

95

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

97

98 Section 1. Paragraph (g) of subsection (10) and
 99 subsections (16) and (19) of section 212.02, Florida Statutes,
 100 are amended, and subsections (35), (36), (37), (38), (39), and
 101 (40) are added to said section, to read:

102 212.02 Definitions.--The following terms and phrases when
 103 used in this chapter have the meanings ascribed to them in this
 104 section, except where the context clearly indicates a different
 105 meaning:

106 (10) "Lease," "let," or "rental" means leasing or renting
 107 of living quarters or sleeping or housekeeping accommodations in
 108 hotels, apartment houses, roominghouses, tourist or trailer
 109 camps and real property, the same being defined as follows:

110 (g)1. "Lease," "let," or "rental" also means any transfer
 111 of possession or control of tangible personal property for a
 112 fixed or indeterminate term for consideration. A clause for a

113 future option to purchase the equipment or to extend the
 114 agreement does not preclude an agreement from being a lease or
 115 rental. This definition shall be used for sales and use tax
 116 purposes regardless of whether a transaction is characterized as
 117 a lease or rental under generally accepted accounting
 118 principles, the Internal Revenue Code, the Uniform Commercial
 119 Code, or other provisions of federal, state, or local law. This
 120 definition includes agreements covering motor vehicles and
 121 trailers when the amount of consideration may be increased or
 122 decreased by reference to the amount realized upon sale or
 123 disposition of the property as defined in 26 U.S.C. s.
 124 7701(h)(1). This definition does not include:

125 a. A transfer of possession or control of property under a
 126 security agreement or deferred payment plan that requires the
 127 transfer of title upon completion of the required payments;

128 b. A transfer of possession or control of property under
 129 an agreement that requires the transfer of title upon completion
 130 of required payments and payment of an option price that does
 131 not exceed the greater of \$100 or 1 percent of the total
 132 required payments; or

133 c. Providing tangible personal property along with an
 134 operator for a fixed or indeterminate period of time. A
 135 condition of this exclusion is that the operator is necessary
 136 for the equipment to perform as designed. For the purpose of
 137 this sub-subparagraph, an operator must do more than maintain,
 138 inspect, or set up the tangible personal property ~~the leasing or~~
 139 ~~rental of tangible personal property and the possession or use~~
 140 ~~thereof by the lessee or rentee for a consideration, without~~

141 ~~transfer of the title of such property, except as expressly~~
 142 ~~provided to the contrary herein.~~

143 2. The term "lease," "let," or "rental" does not mean
 144 hourly, daily, or mileage charges, to the extent that such
 145 charges are subject to the jurisdiction of the United States
 146 Interstate Commerce Commission, when such charges are paid by
 147 reason of the presence of railroad cars owned by another on the
 148 tracks of the taxpayer, or charges made pursuant to car service
 149 agreements. The term "lease," "let," "rental," or "license" does
 150 not include payments made to an owner of high-voltage bulk
 151 transmission facilities in connection with the possession or
 152 control of such facilities by a regional transmission
 153 organization, independent system operator, or similar entity
 154 under the jurisdiction of the Federal Energy Regulatory
 155 Commission. However, where two taxpayers, in connection with the
 156 interchange of facilities, rent or lease property, each to the
 157 other, for use in providing or furnishing any of the services
 158 mentioned in s. 166.231, the term "lease or rental" means only
 159 the net amount of rental involved.

160 (16)(a) "Sales price" applies to the measure subject to
 161 sales tax and means the total amount of consideration, including
 162 cash, credit, property, and services, for which personal
 163 property or services are sold, leased, or rented, valued in
 164 money, whether received in money or otherwise, without any
 165 deduction for the following:

- 166 1. The seller's cost of the property sold.
- 167 2. The cost of materials used, labor or service cost,
- 168 interest, losses, all costs of transportation to the seller, all

169 taxes imposed on the seller, and any other expense of the
 170 seller.

171 3. Charges by the seller for any services necessary to
 172 complete the sale, other than delivery and installation charges.

173 4. Delivery charges.

174 5. Installation charges.

175 (b) The term "sales price" does not include;

176 1. Trade-ins allowed and taken at the time of sale if the
 177 amount is separately stated on the invoice, bill of sale, or
 178 similar document given to the purchaser.

179 2. Discounts, including cash, term, or coupons, which are
 180 not reimbursed by a third party, which are allowed by a seller,
 181 and which are taken by a purchaser at the time of sale.

182 3. Interest, financing, and carrying charges from credit
 183 extended on the sale of personal property or services, if the
 184 amount is separately stated on the invoice, bill of sale, or
 185 similar document given to the purchaser.

186 4. Any taxes legally imposed directly on the consumer
 187 which are separately stated on the invoice, bill of sale, or
 188 similar document given to the purchaser ~~means the total amount~~
 189 ~~paid for tangible personal property, including any services that~~
 190 ~~are a part of the sale, valued in money, whether paid in money~~
 191 ~~or otherwise, and includes any amount for which credit is given~~
 192 ~~to the purchaser by the seller, without any deduction therefrom~~
 193 ~~on account of the cost of the property sold, the cost of~~
 194 ~~materials used, labor or service cost, interest charged, losses,~~
 195 ~~or any other expense whatsoever. "Sales price" also includes the~~
 196 ~~consideration for a transaction which requires both labor and~~

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197 ~~material to alter, remodel, maintain, adjust, or repair tangible~~
198 ~~personal property. Trade-ins or discounts allowed and taken at~~
199 ~~the time of sale shall not be included within the purview of~~
200 ~~this subsection. "Sales price" also includes the full face value~~
201 ~~of any coupon used by a purchaser to reduce the price paid to a~~
202 ~~retailer for an item of tangible personal property; where the~~
203 ~~retailer will be reimbursed for such coupon, in whole or in~~
204 ~~part, by the manufacturer of the item of tangible personal~~
205 ~~property; or whenever it is not practicable for the retailer to~~
206 ~~determine, at the time of sale, the extent to which~~
207 ~~reimbursement for the coupon will be made. The term "sales~~
208 ~~price" does not include federal excise taxes imposed upon the~~
209 ~~retailer on the sale of tangible personal property. The term~~
210 ~~"sales price" does include federal manufacturers' excise taxes,~~
211 ~~even if the federal tax is listed as a separate item on the~~
212 ~~invoice.~~

213 (19) "Tangible personal property" means and includes
214 personal property which may be seen, weighed, measured, or
215 touched or is in any manner perceptible to the senses, including
216 electric power or energy, water, gas, steam, prewritten computer
217 software, boats, motor vehicles and mobile homes as defined in
218 s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all
219 other types of vehicles. The term "tangible personal property"
220 does not include stocks, bonds, notes, insurance, or other
221 obligations or securities; intangibles as defined by the
222 intangible tax law of the state; or pari-mutuel tickets sold or
223 issued under the racing laws of the state.

224 (35) "Agent" means a person appointed by a principal or
225 authorized to act for the principal in a transaction involving
226 the sale of an item of tangible personal property. The term also
227 means a person appointed by a seller to represent the seller
228 before the states that are signatories to the Streamlined Sales
229 and Use Tax Agreement.

230 (36) "Seller" means any person making sales, leases, or
231 rentals of personal property or services.

232 (37) "Certified service provider" means an agent certified
233 under the Streamlined Sales and Use Tax Agreement to perform all
234 of the seller's sales tax functions, other than the seller's
235 obligation to remit tax on its own purchases.

236 (38) "Direct mail" means printed material delivered or
237 distributed by United States mail or other delivery service to a
238 mass audience or to addressees on a mailing list provided by the
239 purchaser or at the direction of the purchaser when the cost of
240 the items is not billed directly to the recipients. The term
241 includes tangible personal property supplied directly or
242 indirectly by the purchaser to the direct mail seller for
243 inclusion in the package containing the printed material. The
244 term does not include multiple items of printed material
245 delivered to a single address.

246 (39) "Prewritten computer software" means computer
247 software, including prewritten upgrades, which is not designed
248 and developed by the author or other creator to the
249 specifications of a specific purchaser. The combining of two or
250 more "prewritten computer software" programs or prewritten
251 portions thereof does not cause the combination to be other than

252 "prewritten computer software." The term includes software
 253 designed and developed by the author or other creator to the
 254 specifications of a specific purchaser when it is sold to a
 255 person other than that purchaser. When a person modifies or
 256 enhances computer software of which the person is not the author
 257 or creator, the person shall be deemed to be the author or
 258 creator only of such person's modifications or enhancements.
 259 Prewritten computer software, or a prewritten portion thereof,
 260 that is modified or enhanced to any degree, when such
 261 modification or enhancement is designed and developed to the
 262 specifications of a specific purchaser, remains "prewritten
 263 computer software"; however, when there is a reasonable,
 264 separately stated charge or an invoice or other statement of the
 265 price given to the purchaser for such modification or
 266 enhancement, such modification or enhancement does not
 267 constitute "prewritten computer software."

268 (40) "Delivery charges" means charges by the seller of
 269 personal property or services for preparation and delivery to a
 270 location designated by the purchaser of personal property or
 271 services, including, but not limited to, transportation,
 272 shipping, postage, handling, crating, and packing. The term does
 273 not include the charges for delivery of "direct mail" as defined
 274 by this section if the charges are separately stated on an
 275 invoice or similar billing document given to the purchaser.

276 Section 2. The amendment of the terms "lease," "let," and
 277 "rental" in s. 212.02, Florida Statutes, made by this act
 278 applies prospectively only, from January 1, 2006, and does not

279 apply retroactively to leases or rentals existing before that
 280 date.

281 Section 3. Paragraphs (a), (c), and (e) of subsection (1)
 282 of section 212.05, Florida Statutes, are amended to read:

283 212.05 Sales, storage, use tax.--It is hereby declared to
 284 be the legislative intent that every person is exercising a
 285 taxable privilege who engages in the business of selling
 286 tangible personal property at retail in this state, including
 287 the business of making mail order sales, or who rents or
 288 furnishes any of the things or services taxable under this
 289 chapter, or who stores for use or consumption in this state any
 290 item or article of tangible personal property as defined herein
 291 and who leases or rents such property within the state.

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

295 (a)1.a. Except as otherwise provided by law, at the rate
 296 of 6 percent of the sales price of each item or article of
 297 tangible personal property when sold at retail in this state,
 298 computed on each taxable sale for the purpose of remitting the
 299 amount of tax due the state, and including each and every retail
 300 sale.

301 b. Each occasional or isolated sale of an aircraft, boat,
 302 mobile home, or motor vehicle of a class or type which is
 303 required to be registered, licensed, titled, or documented in
 304 this state or by the United States Government shall be subject
 305 to tax at the rate provided in this paragraph. The department
 306 shall by rule adopt any nationally recognized publication for

307 valuation of used motor vehicles as the reference price list for
308 any used motor vehicle which is required to be licensed pursuant
309 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
310 party to an occasional or isolated sale of such a vehicle
311 reports to the tax collector a sales price which is less than 80
312 percent of the average loan price for the specified model and
313 year of such vehicle as listed in the most recent reference
314 price list, the tax levied under this paragraph shall be
315 computed by the department on such average loan price unless the
316 parties to the sale have provided to the tax collector an
317 affidavit signed by each party, or other substantial proof,
318 stating the actual sales price. Any party to such sale who
319 reports a sales price less than the actual sales price is guilty
320 of a misdemeanor of the first degree, punishable as provided in
321 s. 775.082 or s. 775.083. The department shall collect or
322 attempt to collect from such party any delinquent sales taxes.
323 In addition, such party shall pay any tax due and any penalty
324 and interest assessed plus a penalty equal to twice the amount
325 of the additional tax owed. Notwithstanding any other provision
326 of law, the Department of Revenue may waive or compromise any
327 penalty imposed pursuant to this subparagraph.

328 2. This paragraph does not apply to the sale of a boat or
329 airplane by or through a registered dealer under this chapter to
330 a purchaser who, at the time of taking delivery, is a
331 nonresident of this state, does not make his or her permanent
332 place of abode in this state, and is not engaged in carrying on
333 in this state any employment, trade, business, or profession in
334 which the boat will be used in this state, or is a corporation

335 none of the officers or directors of which is a resident of, or
336 makes his or her permanent place of abode in, this state, or is
337 a noncorporate entity that has no individual vested with
338 authority to participate in the management, direction, or
339 control of the entity's affairs who is a resident of, or makes
340 his or her permanent abode in, this state. For purposes of this
341 exemption, either a registered dealer acting on his or her own
342 behalf as seller, a registered dealer acting as broker on behalf
343 of a seller, or a registered dealer acting as broker on behalf
344 of the purchaser may be deemed to be the selling dealer. This
345 exemption shall not be allowed unless:

346 a. The purchaser removes a qualifying boat, as described
347 in sub-subparagraph f., from the state within 90 days after the
348 date of purchase or the purchaser removes a nonqualifying boat
349 or an airplane from this state within 10 days after the date of
350 purchase or, when the boat or airplane is repaired or altered,
351 within 20 days after completion of the repairs or alterations;

352 b. The purchaser, within 30 days from the date of
353 departure, shall provide the department with written proof that
354 the purchaser licensed, registered, titled, or documented the
355 boat or airplane outside the state. If such written proof is
356 unavailable, within 30 days the purchaser shall provide proof
357 that the purchaser applied for such license, title,
358 registration, or documentation. The purchaser shall forward to
359 the department proof of title, license, registration, or
360 documentation upon receipt.

361 c. The purchaser, within 10 days of removing the boat or
362 airplane from Florida, shall furnish the department with proof

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363 of removal in the form of receipts for fuel, dockage, slippage,
364 tie-down, or hangaring from outside of Florida. The information
365 so provided must clearly and specifically identify the boat or
366 aircraft;

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

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

374 f. Unless the nonresident purchaser of a boat of 5 net
375 tons of admeasurement or larger intends to remove the boat from
376 this state within 10 days after the date of purchase or when the
377 boat is repaired or altered, within 20 days after completion of
378 the repairs or alterations, the nonresident purchaser shall
379 apply to the selling dealer for a decal which authorizes 90 days
380 after the date of purchase for removal of the boat. The
381 department is authorized to issue decals in advance to dealers.
382 The number of decals issued in advance to a dealer shall be
383 consistent with the volume of the dealer's past sales of boats
384 which qualify under this sub-subparagraph. The selling dealer or
385 his or her agent shall mark and affix the decals to qualifying
386 boats in the manner prescribed by the department, prior to
387 delivery of the boat.

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

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

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

395 (IV) The department is authorized to require dealers who
 396 purchase decals to file reports with the department and may
 397 prescribe all necessary records by rule. All such records are
 398 subject to inspection by the department.

399 (V) Any dealer or his or her agent who issues a decal
 400 falsely, fails to affix a decal, mismarks the expiration date of
 401 a decal, or fails to properly account for decals will be
 402 considered prima facie to have committed a fraudulent act to
 403 evade the tax and will be liable for payment of the tax plus a
 404 mandatory penalty of 200 percent of the tax, and shall be liable
 405 for fine and punishment as provided by law for a conviction of a
 406 misdemeanor of the first degree, as provided in s. 775.082 or s.
 407 775.083.

408 (VI) Any nonresident purchaser of a boat who removes a
 409 decal prior to permanently removing the boat from the state, or
 410 defaces, changes, modifies, or alters a decal in a manner
 411 affecting its expiration date prior to its expiration, or who
 412 causes or allows the same to be done by another, will be
 413 considered prima facie to have committed a fraudulent act to
 414 evade the tax and will be liable for payment of the tax plus a
 415 mandatory penalty of 200 percent of the tax, and shall be liable
 416 for fine and punishment as provided by law for a conviction of a

417 | misdemeanor of the first degree, as provided in s. 775.082 or s.
 418 | 775.083.

419 | (VII) The department is authorized to adopt rules
 420 | necessary to administer and enforce this subparagraph and to
 421 | publish the necessary forms and instructions.

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

425 |
 426 | If the purchaser fails to remove the qualifying boat from this
 427 | state within 90 days after purchase or a nonqualifying boat or
 428 | an airplane from this state within 10 days after purchase or,
 429 | when the boat or airplane is repaired or altered, within 20 days
 430 | after completion of such repairs or alterations, or permits the
 431 | boat or airplane to return to this state within 6 months from
 432 | the date of departure, or if the purchaser fails to furnish the
 433 | department with any of the documentation required by this
 434 | subparagraph within the prescribed time period, the purchaser
 435 | shall be liable for use tax on the cost price of the boat or
 436 | airplane and, in addition thereto, payment of a penalty to the
 437 | Department of Revenue equal to the tax payable. This penalty
 438 | shall be in lieu of the penalty imposed by s. 212.12(2) and is
 439 | mandatory and shall not be waived by the department. The 90-day
 440 | period following the sale of a qualifying boat tax exempt to a
 441 | nonresident may not be tolled for any reason. Notwithstanding
 442 | other provisions of this paragraph to the contrary, an aircraft
 443 | purchased in this state under the provisions of this paragraph
 444 | may be returned to this state for repairs within 6 months after

445 the date of its departure without being in violation of the law
 446 and without incurring liability for the payment of tax or
 447 penalty on the purchase price of the aircraft if the aircraft is
 448 removed from this state within 20 days after the completion of
 449 the repairs and if such removal can be demonstrated by invoices
 450 for fuel, tie-down, hangar charges issued by out-of-state
 451 vendors or suppliers, or similar documentation.

452 (c) At the rate of 6 percent of the gross proceeds derived
 453 from the lease or rental of tangible personal property, as
 454 defined herein; ~~however, the following special provisions apply~~
 455 ~~to the lease or rental of motor vehicles:~~

456 1. ~~When a motor vehicle is leased or rented for a period~~
 457 ~~of less than 12 months:~~

458 a. ~~If the motor vehicle is rented in Florida, the entire~~
 459 ~~amount of such rental is taxable, even if the vehicle is dropped~~
 460 ~~off in another state.~~

461 b. ~~If the motor vehicle is rented in another state and~~
 462 ~~dropped off in Florida, the rental is exempt from Florida tax.~~

463 2. ~~Except as provided in subparagraph 3., for the lease or~~
 464 ~~rental of a motor vehicle for a period of not less than 12~~
 465 ~~months, sales tax is due on the lease or rental payments if the~~
 466 ~~vehicle is registered in this state; provided, however, that no~~
 467 ~~tax shall be due if the taxpayer documents use of the motor~~
 468 ~~vehicle outside this state and tax is being paid on the lease or~~
 469 ~~rental payments in another state.~~

470 3. ~~The tax imposed by this chapter does not apply to the~~
 471 ~~lease or rental of a commercial motor vehicle as defined in s.~~
 472 ~~316.003(66)(a) to one lessee or rentee for a period of not less~~

473 ~~than 12 months when tax was paid on the purchase price of such~~
 474 ~~vehicle by the lessor. To the extent tax was paid with respect~~
 475 ~~to the purchase of such vehicle in another state, territory of~~
 476 ~~the United States, or the District of Columbia, the Florida tax~~
 477 ~~payable shall be reduced in accordance with the provisions of s.~~
 478 ~~212.06(7). This subparagraph shall only be available when the~~
 479 ~~lease or rental of such property is an established business or~~
 480 ~~part of an established business or the same is incidental or~~
 481 ~~germane to such business.~~

482 (e)1. At the rate of 6 percent on charges for:

483 a. Prepaid calling arrangements. The tax on charges for
 484 prepaid calling arrangements shall be collected at the time of
 485 sale and remitted by the selling dealer.

486 (I) "Prepaid calling arrangement" means the separately
 487 stated retail sale by advance payment of communications services
 488 that consist exclusively of telephone calls originated by using
 489 an access number, authorization code, or other means that may be
 490 manually, electronically, or otherwise entered and that are sold
 491 in predetermined units or dollars whose number declines with use
 492 in a known amount.

493 (II) The sale or recharge of the prepaid calling
 494 arrangement is deemed to take place in accordance with paragraph
 495 212.06(3)(d). In the case of a sale of a mobile communications
 496 service that is a prepaid calling arrangement, the retail sale
 497 is sourced at ~~If the sale or recharge of the prepaid calling~~
 498 ~~arrangement does not take place at the dealer's place of~~
 499 ~~business, it shall be deemed to take place at the customer's~~
 500 ~~shipping address or, if no item is shipped, at the customer's~~

501 ~~address~~ or the location associated with the customer's mobile
 502 telephone number.

503 (III) The sale or recharge of a prepaid calling
 504 arrangement shall be treated as a sale of tangible personal
 505 property for purposes of this chapter, whether or not a tangible
 506 item evidencing such arrangement is furnished to the purchaser,
 507 and such sale within this state subjects the selling dealer to
 508 the jurisdiction of this state for purposes of this subsection.

509 b. The installation of telecommunication and telegraphic
 510 equipment.

511 c. Electrical power or energy, except that the tax rate
 512 for charges for electrical power or energy is 7 percent.

513 2. The provisions of s. 212.17(3), regarding credit for
 514 tax paid on charges subsequently found to be worthless, shall be
 515 equally applicable to any tax paid under the provisions of this
 516 section on charges for prepaid calling arrangements,
 517 telecommunication or telegraph services, or electric power
 518 subsequently found to be uncollectible. The word "charges" in
 519 this paragraph does not include any excise or similar tax levied
 520 by the Federal Government, any political subdivision of the
 521 state, or any municipality upon the purchase, sale, or recharge
 522 of prepaid calling arrangements or upon the purchase or sale of
 523 telecommunication, television system program, or telegraph
 524 service or electric power, which tax is collected by the seller
 525 from the purchaser.

526 Section 4. Section 212.054, Florida Statutes, is amended
 527 to read:

528 212.054 Discretionary sales surtax; limitations,
 529 administration, and collection.--

530 (1) No general excise tax on sales shall be levied by the
 531 governing body of any county unless specifically authorized in
 532 s. 212.055. Any general excise tax on sales authorized pursuant
 533 to said section shall be administered and collected exclusively
 534 as provided in this section.

535 (2)(a) The tax imposed by the governing body of any county
 536 authorized to so levy pursuant to s. 212.055 shall be a
 537 discretionary surtax on all transactions occurring in the county
 538 which transactions are subject to the state tax imposed on
 539 sales, use, services, rentals, admissions, and other
 540 transactions by this chapter and communications services as
 541 defined for purposes of chapter 202. The surtax, if levied,
 542 shall be computed as the applicable rate or rates authorized
 543 pursuant to s. 212.055 times the amount of taxable sales and
 544 taxable purchases representing such transactions. If the surtax
 545 is levied on the sale of an item of tangible personal property
 546 or on the sale of a service, the surtax shall be computed by
 547 multiplying the rate imposed by the county within which the sale
 548 occurs by the amount of the taxable sale. The sale of an item of
 549 tangible personal property or the sale of a service is not
 550 subject to the surtax if the property, the service, or the
 551 tangible personal property representing the service is delivered
 552 within a county that does not impose a discretionary sales
 553 surtax.

554 (b) However:

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555 1. The sales amount above \$5,000 on any item of tangible
556 personal property shall not be subject to the surtax. However,
557 charges for prepaid calling arrangements, as defined in s.
558 212.05(1)(e)1.a., shall be subject to the surtax. For purposes
559 of administering the \$5,000 limitation on an item of tangible
560 personal property, if two or more taxable items of tangible
561 personal property are sold to the same purchaser at the same
562 time and, under generally accepted business practice or industry
563 standards or usage, are normally sold in bulk or are items that,
564 when assembled, comprise a working unit or part of a working
565 unit, such items must be considered a single item for purposes
566 of the \$5,000 limitation when supported by a charge ticket,
567 sales slip, invoice, or other tangible evidence of a single sale
568 or rental.

569 2. In the case of utility services covering a period
570 starting before and ending after the effective date of the
571 surtax, the rate shall apply as follows:

572 a. In the case of a rate adoption or increase, the new
573 rate shall apply to the first billing period starting on or
574 after the effective date of the surtax or increase.

575 b. In the case of a rate decrease or termination, the new
576 rate shall apply to bills rendered on or after the effective
577 date of the rate change ~~billed on or after the effective date of~~
578 ~~any such surtax, the entire amount of the charge for utility~~
579 ~~services shall be subject to the surtax. In the case of utility~~
580 ~~services billed after the last day the surtax is in effect, the~~
581 ~~entire amount of the charge on said items shall not be subject~~
582 ~~to the surtax.~~

583
584 "Utility service," as used in this section, does not include any
585 communications services as defined in chapter 202.

586 3. In the case of written contracts which are signed prior
587 to the effective date of any such surtax for the construction of
588 improvements to real property or for remodeling of existing
589 structures, the surtax shall be paid by the contractor
590 responsible for the performance of the contract. However, the
591 contractor may apply for one refund of any such surtax paid on
592 materials necessary for the completion of the contract. Any
593 application for refund shall be made no later than 15 months
594 following initial imposition of the surtax in that county. The
595 application for refund shall be in the manner prescribed by the
596 department by rule. A complete application shall include proof
597 of the written contract and of payment of the surtax. The
598 application shall contain a sworn statement, signed by the
599 applicant or its representative, attesting to the validity of
600 the application. The department shall, within 30 days after
601 approval of a complete application, certify to the county
602 information necessary for issuance of a refund to the applicant.
603 Counties are hereby authorized to issue refunds for this purpose
604 and shall set aside from the proceeds of the surtax a sum
605 sufficient to pay any refund lawfully due. Any person who
606 fraudulently obtains or attempts to obtain a refund pursuant to
607 this subparagraph, in addition to being liable for repayment of
608 any refund fraudulently obtained plus a mandatory penalty of 100
609 percent of the refund, is guilty of a felony of the third

610 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 611 775.084.

612 4. In the case of any vessel, railroad, or motor vehicle
 613 common carrier entitled to partial exemption from tax imposed
 614 under this chapter pursuant to s. 212.08(4), (8), or (9), the
 615 basis for imposition of surtax shall be the same as provided in
 616 s. 212.08 and the ratio shall be applied each month to total
 617 purchases in this state of property qualified for proration
 618 which is delivered or sold in the taxing county to establish the
 619 portion used and consumed in intracounty movement and subject to
 620 surtax.

621 (3) For purposes of this section, a retail sale, lease, or
 622 rental of tangible personal property, a digital good, or a
 623 service shall be deemed to have occurred in a county imposing
 624 the surtax when the location where the sale is deemed to take
 625 place in accordance with s. 212.06(3) is located in a county
 626 that imposes a surtax.

627 (4)(3) For the purpose of this section, a transaction
 628 shall be deemed to have occurred in a county imposing the surtax
 629 when:

630 (a)1. Notwithstanding subsection (3), the retail sale that
 631 is a modular home or manufactured home that is not a mobile home
 632 includes an item of tangible personal property, a service, or
 633 tangible personal property representing a service, and the item
 634 of tangible personal property, the service, or the tangible
 635 personal property representing the service is delivered within
 636 the county. If there is no reasonable evidence of delivery of a

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637 ~~service, the sale of a service is deemed to occur in the county~~
638 ~~in which the purchaser accepts the bill of sale.~~

639 (b)2. Notwithstanding subsection (3), the retail sale,
640 excluding lease or rental, of any motor vehicle that does not
641 qualify as transportation equipment, as defined in s.
642 212.06(3)(g), or the retail sale of a mobile home of a class or
643 type which is required to be registered in this state or in any
644 other state occurs shall be deemed to have occurred only in the
645 county identified as the residence address of the purchaser on
646 the registration or title document for such property.

647 (c) The real property that is leased or rented is located
648 in the county.

649 (d) The transient rental transaction occurs in the county.

650 (e)(b) The event for which an admission is charged is
651 located in the county.

652 (f) The coin-operated amusement or vending machine is
653 located in the county.

654 (g) The florist taking the original order to sell tangible
655 personal property is located in the county, notwithstanding any
656 other provision of this section.

657 ~~(e) The consumer of utility services is located in the~~
658 ~~county.~~

659 (h)(d)1. Notwithstanding subsection (3), the delivery
660 derived from the retail sale, excluding lease or rental, of any
661 aircraft that does not qualify as transportation equipment, as
662 defined in s. 212.06(3)(g), or of any boat of a class or type
663 that is required to be registered, licensed, titled, or

664 documented in this state or by the United States Government is
 665 to a location in the county.

666 2. The user of any aircraft or boat of a class or type
 667 which is required to be registered, licensed, titled, or
 668 documented in this state or by the United States Government
 669 imported into the county for use, consumption, distribution, or
 670 storage to be used or consumed in the county is located in the
 671 county.

672 ~~3.2-~~ However, it shall be presumed that such items used
 673 outside the county for 6 months or longer before being imported
 674 into the county were not purchased for use in the county, except
 675 as provided in s. 212.06~~(9)~~~~(8)~~(b).

676 ~~4.3-~~ This paragraph does not apply to the use or
 677 consumption of items upon which a like tax of equal or greater
 678 amount has been lawfully imposed and paid outside the county.

679 ~~(i)~~~~(e)~~ The purchaser of any motor vehicle or mobile home
 680 of a class or type which is required to be registered in this
 681 state is a resident of the taxing county as determined by the
 682 address appearing on or to be reflected on the registration
 683 document for such property.

684 ~~(j)~~~~(f)~~1. Any motor vehicle or mobile home of a class or
 685 type which is required to be registered in this state is
 686 imported from another state into the taxing county by a user
 687 residing therein for the purpose of use, consumption,
 688 distribution, or storage in the taxing county.

689 2. However, it shall be presumed that such items used
 690 outside the taxing county for 6 months or longer before being

691 imported into the county were not purchased for use in the
 692 county.

693 ~~(g) The real property which is leased or rented is located~~
 694 ~~in the county.~~

695 ~~(h) The transient rental transaction occurs in the county.~~

696 ~~(i) The delivery of any aircraft or boat of a class or~~
 697 ~~type which is required to be registered, licensed, titled, or~~
 698 ~~documented in this state or by the United States Government is~~
 699 ~~to a location in the county. However, this paragraph does not~~
 700 ~~apply to the use or consumption of items upon which a like tax~~
 701 ~~of equal or greater amount has been lawfully imposed and paid~~
 702 ~~outside the county.~~

703 (k)~~(j)~~ The dealer owing a use tax on purchases or leases
 704 is located in the county.

705 ~~(k) The delivery of tangible personal property other than~~
 706 ~~that described in paragraph (d), paragraph (e), or paragraph (f)~~
 707 ~~is made to a location outside the county, but the property is~~
 708 ~~brought into the county within 6 months after delivery, in which~~
 709 ~~event, the owner must pay the surtax as a use tax.~~

710 ~~(l) The coin-operated amusement or vending machine is~~
 711 ~~located in the county.~~

712 ~~(m) The florist taking the original order to sell tangible~~
 713 ~~personal property is located in the county, notwithstanding any~~
 714 ~~other provision of this section.~~

715 (5)~~(4)~~(a) The department shall administer, collect, and
 716 enforce the tax authorized under s. 212.055 pursuant to the same
 717 procedures used in the administration, collection, and
 718 enforcement of the general state sales tax imposed under the

719 provisions of this chapter, except as provided in this section.
 720 The provisions of this chapter regarding interest and penalties
 721 on delinquent taxes shall apply to the surtax. Discretionary
 722 sales surtaxes shall not be included in the computation of
 723 estimated taxes pursuant to s. 212.11. Notwithstanding any other
 724 provision of law, a dealer need not separately state the amount
 725 of the surtax on the charge ticket, sales slip, invoice, or
 726 other tangible evidence of sale. For the purposes of this
 727 section and s. 212.055, the "proceeds" of any surtax means all
 728 funds collected and received by the department pursuant to a
 729 specific authorization and levy under s. 212.055, including any
 730 interest and penalties on delinquent surtaxes.

731 (b) The proceeds of a discretionary sales surtax collected
 732 by the selling dealer located in a county which imposes the
 733 surtax shall be returned, less the cost of administration, to
 734 the county where the selling dealer is located. The proceeds
 735 shall be transferred to the Discretionary Sales Surtax Clearing
 736 Trust Fund. A separate account shall be established in such
 737 trust fund for each county imposing a discretionary surtax. The
 738 amount deducted for the costs of administration shall not exceed
 739 3 percent of the total revenue generated for all counties
 740 levying a surtax authorized in s. 212.055. The amount deducted
 741 for the costs of administration shall be used only for those
 742 costs which are solely and directly attributable to the surtax.
 743 The total cost of administration shall be prorated among those
 744 counties levying the surtax on the basis of the amount collected
 745 for a particular county to the total amount collected for all
 746 counties. No later than March 1 of each year, the department

747 shall submit a written report which details the expenses and
748 amounts deducted for the costs of administration to the
749 President of the Senate, the Speaker of the House of
750 Representatives, and the governing authority of each county
751 levying a surtax. The department shall distribute the moneys in
752 the trust fund each month to the appropriate counties, unless
753 otherwise provided in s. 212.055.

754 (c)1. Any dealer located in a county that does not impose
755 a discretionary sales surtax but who collects the surtax due to
756 sales of tangible personal property or services delivered
757 outside the county shall remit monthly the proceeds of the
758 surtax to the department to be deposited into an account in the
759 Discretionary Sales Surtax Clearing Trust Fund which is separate
760 from the county surtax collection accounts. The department shall
761 distribute funds in this account using a distribution factor
762 determined for each county that levies a surtax and multiplied
763 by the amount of funds in the account and available for
764 distribution. The distribution factor for each county equals the
765 product of:

766 a. The county's latest official population determined
767 pursuant to s. 186.901;

768 b. The county's rate of surtax; and

769 c. The number of months the county has levied a surtax
770 during the most recent distribution period;

771
772 divided by the sum of all such products of the counties levying
773 the surtax during the most recent distribution period.

774 2. The department shall compute distribution factors for
775 eligible counties once each quarter and make appropriate
776 quarterly distributions.

777 3. A county that fails to timely provide the information
778 required by this section to the department authorizes the
779 department, by such action, to use the best information
780 available to it in distributing surtax revenues to the county.
781 If this information is unavailable to the department, the
782 department may partially or entirely disqualify the county from
783 receiving surtax revenues under this paragraph. A county that
784 fails to provide timely information waives its right to
785 challenge the department's determination of the county's share,
786 if any, of revenues provided under this paragraph.

787 ~~(5) No discretionary sales surtax or increase or decrease~~
788 ~~in the rate of any discretionary sales surtax shall take effect~~
789 ~~on a date other than January 1. No discretionary sales surtax~~
790 ~~shall terminate on a day other than December 31.~~

791 (6) The governing body of any county levying a
792 discretionary sales surtax shall enact an ordinance levying the
793 surtax in accordance with the procedures described in s.
794 125.66(2).

795 (7)(a) Any adoption, repeal, or rate change of the surtax
796 by the governing body of any county levying a discretionary
797 sales surtax or the school board of any county levying the
798 school capital outlay surtax authorized by s. 212.055(6) is
799 effective on April 1. A county or school board adopting,
800 repealing, or changing the rate of such tax shall notify the
801 department within 10 days after final adoption by ordinance or

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802 referendum of an adoption, repeal ~~imposition, termination,~~ or
 803 rate change of the surtax, but no later than November 16
 804 immediately preceding such April 1 ~~prior to the~~ effective date.
 805 The notice must specify the time period during which the surtax
 806 will be in effect and the rate and must include a copy of the
 807 ordinance and such other information as the department requires
 808 by rule. Failure to timely provide such notification to the
 809 department shall result in the delay of the effective date for a
 810 period of 1 year.

811 (b) In addition to the notification required by paragraph
 812 (a), the governing body of any county proposing to levy a
 813 discretionary sales surtax or the school board of any county
 814 proposing to levy the school capital outlay surtax authorized by
 815 s. 212.055(6) shall notify the department by October 1 if the
 816 referendum or consideration of the ordinance that would result
 817 in imposition, termination, or rate change of the surtax is
 818 scheduled to occur on or after October 1 of that year. Failure
 819 to timely provide such notification to the department shall
 820 result in the delay of the effective date for a period of 1
 821 year.

822 (8) The department shall provide notice of such adoption,
 823 repeal, or change to all affected sellers by the December 1
 824 immediately preceding the April 1 effective date.

825 (9)~~(8)~~ With respect to any motor vehicle or mobile home of
 826 a class or type which is required to be registered in this
 827 state, the tax due on a transaction occurring in the taxing
 828 county as herein provided shall be collected from the purchaser
 829 or user incident to the titling and registration of such

830 property, irrespective of whether such titling or registration
 831 occurs in the taxing county.

832 (10) For the purpose of the state providing and
 833 maintaining a database of all sales and use tax rates for all
 834 local taxing jurisdictions in accordance with the Streamlined
 835 Sales and Use Tax Agreement under s. 213.256, the provisions of
 836 s. 202.22(2) shall apply.

837 (a) A seller or certified service provider who collects
 838 and remits the state and local sales and use tax imposed by this
 839 chapter shall use the database provided under s. 202.22(2).

840 (b) A seller or certified service provider that collects
 841 and remits the state and local sales and use tax imposed under
 842 this chapter shall be held harmless from tax, interest, and
 843 penalties which would otherwise be due solely as a result of the
 844 seller or certified service provider relying on an incorrect
 845 taxing jurisdiction assignment made in the database provided
 846 under s. 202.22(2).

847 (c) The provisions of this subsection shall not apply when
 848 the purchased product is received by the purchaser at the
 849 business location of the seller.

850 Section 5. Subsections (6) and (7) of section 212.0596,
 851 Florida Statutes, are amended to read:

852 212.0596 Taxation of mail order sales.--

853 ~~(6) Notwithstanding other provisions of law, a dealer who~~
 854 ~~makes a mail order sale in this state is exempt from collecting~~
 855 ~~and remitting any local option surtax on the sale, unless the~~
 856 ~~dealer is located in a county that imposes a surtax within the~~
 857 ~~meaning of s. 212.054(3)(a), the order is placed through the~~

858 ~~dealer's location in such county, and the property purchased is~~
 859 ~~delivered into such county or into another county in this state~~
 860 ~~that levies the surtax, in which case the provisions of s.~~
 861 ~~212.054(3)(a) are applicable.~~

862 (6)(7) The department may establish by rule procedures for
 863 collecting the use tax from unregistered persons who but for
 864 their mail order purchases would not be required to remit sales
 865 or use tax directly to the department. The procedures may
 866 provide for waiver of registration and registration fees,
 867 provisions for irregular remittance of tax, elimination of the
 868 collection allowance, and nonapplication of local option
 869 surtaxes.

870 Section 6. Present subsections (3) through (16) of section
 871 212.06, Florida Statutes, are renumbered as subsections (4)
 872 through (17), respectively, a new subsection (3) is added to
 873 said section, and present subsections (3) and (12) of said
 874 section are amended, to read:

875 212.06 Sales, storage, use tax; collectible from dealers;
 876 "dealer" defined; dealers to collect from purchasers;
 877 legislative intent as to scope of tax.--

878 (3) It is the intent of this chapter to apply this
 879 subsection to determine the source of a transaction for purposes
 880 of applying the tax imposed by this chapter. When the source of
 881 the transaction is determined to be a Florida location, the tax
 882 imposed by this chapter applies in accordance with this chapter.

883 (a) For purposes of this subsection, the terms "receive"
 884 and "receipt" mean:

885 1. Taking possession of tangible personal property;

- 886 2. Making first use of services; or
 887 3. Taking possession or making first use of digital goods,
 888 whichever comes first.

889
 890 The terms do not include possession by a shipping company on
 891 behalf of the purchaser.

892 (b) For purposes of this subsection, the term "product"
 893 means tangible personal property, a digital good, or a service.

894 (c) This section does not apply to the sales or use taxes
 895 levied on the following:

896 1. The retail sale or transfer of boats, modular homes,
 897 manufactured homes, or mobile homes;

898 2. The retail sale, excluding lease or rental, of motor
 899 vehicles or aircraft that do not qualify as transportation
 900 equipment as defined in paragraph (g). The lease or rental of
 901 these items shall be deemed to have occurred in accordance with
 902 paragraph (f).

903 3. The retail sale of tangible personal property by a
 904 florist.

905
 906 Such retail sales are deemed to take place in accordance with s.
 907 212.054(4).

908 (d) The retail sale of a product, excluding a lease or
 909 rental, shall be deemed to take place:

910 1. When the product is received by the purchaser at a
 911 business location of the seller, at that business location.

912 2. When the product is not received by the purchaser at a
 913 business location of the seller, at the location where receipt

914 by the purchaser, or the purchaser's donee, designated as such
 915 by the purchaser, occurs, including the location indicated by
 916 instructions for delivery to the purchaser or donee, known to
 917 the seller.

918 3. When subparagraphs 1. and 2. do not apply, at the
 919 location indicated by an address for the purchaser which is
 920 available from the business records of the seller which are
 921 maintained in the ordinary course of the seller's business when
 922 use of this address does not constitute bad faith.

923 4. When subparagraphs 1., 2., and 3. do not apply, at the
 924 location indicated by an address for the purchaser obtained
 925 during the consummation of the sale, including the address of a
 926 purchaser's payment instrument, if no other address is
 927 available, when use of this address does not constitute bad
 928 faith.

929 5. When subparagraphs 1., 2., 3., and 4. do not apply,
 930 including when the seller is without sufficient information to
 931 apply the previous paragraphs, the address from which tangible
 932 personal property was shipped, from which the digital good or
 933 the computer software delivered electronically was first
 934 available for transmission by the seller, or from which the
 935 service was provided, disregarding any location that merely
 936 provided the digital transfer of the product sold.

937 (e) The lease or rental of tangible personal property,
 938 other than property identified in paragraphs (f) and (g), shall
 939 be deemed to have occurred as follows:

940 1. For a lease or rental that requires recurring periodic
 941 payments, the first periodic payment is deemed to take place in

942 accordance with paragraph (d), notwithstanding the exclusion of
943 lease or rental in paragraph (d). Subsequent periodic payments
944 are deemed to have occurred at the primary property location for
945 each period covered by the payment. The primary property
946 location is determined by an address for the property provided
947 by the lessee which is available to the lessor from its records
948 maintained in the ordinary course of business, when use of this
949 address does not constitute bad faith. The property location
950 shall not be altered by intermittent use of the property at
951 different locations, such as use of business property that
952 accompanies employees on business trips and service calls.

953 2. For a lease or rental that does not require recurring
954 periodic payments, the payment is deemed to take place in
955 accordance with the provisions of paragraph (d), notwithstanding
956 the exclusion of lease or rental in paragraph (d).

957 3. This paragraph does not affect the imposition or
958 computation of sales or use tax on leases or rentals based on a
959 lump-sum or accelerated basis or on the acquisition of property
960 for lease.

961 (f) The lease or rental of motor vehicles or aircraft that
962 do not qualify as transportation equipment, as defined in
963 paragraph (g), shall be sourced as follows:

964 1. For a lease or rental that requires recurring periodic
965 payments, each periodic payment is deemed to take place at the
966 primary property location. The primary property location shall
967 be determined by an address for the property provided by the
968 lessee which is available to the lessor from its records
969 maintained in the ordinary course of business, when use of this

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970 address does not constitute bad faith. This location shall not
971 be altered by intermittent use at different locations.

972 2. For a lease or rental that does not require recurring
973 periodic payments, the payment is deemed to take place in
974 accordance with paragraph (d), notwithstanding the exclusion of
975 lease or rental in paragraph (d).

976 3. This paragraph does not affect the imposition or
977 computation of sales or use tax on leases or rentals based on a
978 lump-sum or accelerated basis or on the acquisition of property
979 for lease.

980 (g) The retail sale, including lease or rental, of
981 transportation equipment shall be deemed to take place in
982 accordance with paragraph (d), notwithstanding the exclusion of
983 lease or rental in paragraph (d). The term "transportation
984 equipment" means:

985 1. Locomotives and railcars that are used for the carriage
986 of persons or property in interstate commerce;

987 2. Trucks and truck tractors with a Gross Vehicle Weight
988 Rating (GVWR) of 10,001 pounds or greater, trailers,
989 semitrailers, or passenger buses that are registered through the
990 International Registration Plan and operated under authority of
991 a carrier authorized and certificated by the United States
992 Department of Transportation or another federal authority to
993 engage in the carriage of persons or property in interstate
994 commerce;

995 3. Aircraft that are operated by air carriers authorized
996 and certificated by the United States Department of
997 Transportation or another federal or a foreign authority to

998 engage in the carriage of persons or property in interstate or
 999 foreign commerce; or

1000 4. Containers designed for use on and component parts
 1001 attached or secured on the items set forth in subparagraphs 1.
 1002 through 3.

1003 (4)(3)(a) Except as provided in paragraph (b), every
 1004 dealer making sales, whether within or outside the state, of
 1005 tangible personal property for distribution, storage, or use or
 1006 other consumption, in this state, shall, at the time of making
 1007 sales, collect the tax imposed by this chapter from the
 1008 purchaser.

1009 (a) Notwithstanding subsection (3), a business purchaser
 1010 that is not a holder of a direct-pay permit and that knows at
 1011 the time of purchase of a digital good, computer software
 1012 delivered electronically, or service that the digital good,
 1013 computer software delivered electronically, or service will be
 1014 concurrently available for use in more than one jurisdiction
 1015 shall deliver to the dealer a multiple points of use exemption
 1016 form (MPU exemption form) at the time of purchase.

1017 1. Upon receipt of the MPU exemption form, the seller is
 1018 relieved of all obligation to collect, pay, or remit the
 1019 applicable tax, and the purchaser shall be obligated to collect,
 1020 pay, or remit the applicable tax on a direct-pay basis.

1021 2. A purchaser delivering the MPU exemption form may use
 1022 any reasonable, but consistent and uniform, method of
 1023 apportionment that is supported by the purchaser's business
 1024 records as they exist at the time of the consummation of the
 1025 sale.

1026 3. The MPU exemption form will remain in effect for all
 1027 future sales by the seller to the purchaser, except as to the
 1028 subsequent sale's specific apportionment that is governed by the
 1029 principle of subparagraph 2. and the facts existing at the time
 1030 of the sale, until the MPU exemption form is revoked in writing.

1031 4. A holder of a direct-pay permit is not required to
 1032 deliver an MPU exemption form to the seller. A direct-pay
 1033 permitholder shall follow the provisions of subparagraph 2. in
 1034 apportioning the tax due on a digital good or a service that
 1035 will be concurrently available for use in more than one
 1036 jurisdiction.

1037 (b)1. Notwithstanding subsection (3), a purchaser of
 1038 direct mail that is not a holder of a direct-pay permit shall
 1039 provide to the seller in conjunction with the purchase either a
 1040 direct mail form or information to show the jurisdictions to
 1041 which the direct mail is delivered to recipients. Upon receipt
 1042 of the direct mail form, the seller is relieved of all
 1043 obligations to collect, pay, or remit the applicable tax, and
 1044 the purchaser is obligated to pay or remit the applicable tax on
 1045 a direct-pay basis. A direct mail form shall remain in effect
 1046 for all future sales of direct mail by the seller to the
 1047 purchaser until it is revoked in writing.

1048 2. Upon receipt of information from the purchaser showing
 1049 the jurisdictions to which the direct mail is delivered to
 1050 recipients, the seller shall collect the tax according to the
 1051 delivery information provided by the purchaser. In the absence
 1052 of bad faith, the seller is relieved of any further obligation
 1053 to collect tax on any transaction on which the seller has

1054 collected tax pursuant to the delivery information provided by
 1055 the purchaser.

1056 3. If the purchaser of direct mail does not have a direct-
 1057 pay permit and does not provide the seller with either a direct
 1058 mail form or delivery information as required by subparagraph
 1059 1., the seller shall collect the tax according to subparagraph
 1060 5. This paragraph does not limit a purchaser's obligation for
 1061 sales or use tax to any state to which the direct mail is
 1062 delivered.

1063 4. If a purchaser of direct mail provides the seller with
 1064 documentation of direct-pay authority, the purchaser is not
 1065 required to provide a direct mail form or delivery information
 1066 to the seller ~~A purchaser of printed materials shall have sole~~
 1067 ~~responsibility for the taxes imposed by this chapter on those~~
 1068 ~~materials when the printer of the materials delivers them to the~~
 1069 ~~United States Postal Service for mailing to persons other than~~
 1070 ~~the purchaser located within and outside this state. Printers of~~
 1071 ~~materials delivered by mail to persons other than the purchaser~~
 1072 ~~located within and outside this state shall have no obligation~~
 1073 ~~or responsibility for the payment or collection of any taxes~~
 1074 ~~imposed under this chapter on those materials. However, printers~~
 1075 ~~are obligated to collect the taxes imposed by this chapter on~~
 1076 ~~printed materials when all, or substantially all, of the~~
 1077 ~~materials will be mailed to persons located within this state.~~
 1078 ~~For purposes of the printer's tax collection obligation, there~~
 1079 ~~is a rebuttable presumption that all materials printed at a~~
 1080 ~~facility are mailed to persons located within the same state as~~
 1081 ~~that in which the facility is located. A certificate provided by~~

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1082 ~~the purchaser to the printer concerning the delivery of the~~
 1083 ~~printed materials for that purchase or all purchases shall be~~
 1084 ~~sufficient for purposes of rebutting the presumption created~~
 1085 ~~herein.~~

1086 5.2. The Department of Revenue is authorized to adopt
 1087 rules and forms to implement the provisions of this paragraph.

1088 ~~(13)~~(12) In lieu of any other facts which may indicate
 1089 commingling, any boat which remains in this state for more than
 1090 an aggregate of 183 days in any 1-year period, except as
 1091 provided in subsection (9) ~~(8)~~ or s. 212.08(7)(t), shall be
 1092 presumed to be commingled with the general mass of property of
 1093 this state.

1094 Section 7. Subsections (1) and (2) and paragraph (t) of
 1095 subsection (7) of section 212.08, Florida Statutes, are amended
 1096 to read:

1097 212.08 Sales, rental, use, consumption, distribution, and
 1098 storage tax; specified exemptions.--The sale at retail, the
 1099 rental, the use, the consumption, the distribution, and the
 1100 storage to be used or consumed in this state of the following
 1101 are hereby specifically exempt from the tax imposed by this
 1102 chapter.

1103 (1) EXEMPTIONS; GENERAL GROCERIES.--

1104 (a) Food and food ingredients ~~products~~ for human
 1105 consumption are exempt from the tax imposed by this chapter.

1106 (b) For the purpose of this chapter, as used in this
 1107 subsection, the term "food and food ingredients ~~products~~" means
 1108 substances, whether in liquid, concentrated, solid, frozen,
 1109 dried, or dehydrated form, which are sold for ingestion or

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1110 chewing by humans and are consumed for their taste or
1111 nutritional value ~~edible commodities, whether processed, cooked,~~
1112 ~~raw, canned, or in any other form, which are generally regarded~~
1113 ~~as food.~~ This includes, but is not limited to, all of the
1114 following:

1115 ~~1. Cereals and cereal products, baked goods,~~
1116 ~~oleomargarine, meat and meat products, fish and seafood~~
1117 ~~products, frozen foods and dinners, poultry, eggs and egg~~
1118 ~~products, vegetables and vegetable products, fruit and fruit~~
1119 ~~products, spices, salt, sugar and sugar products, milk and dairy~~
1120 ~~products, and products intended to be mixed with milk.~~

1121 ~~2. Natural fruit or vegetable juices or their concentrates~~
1122 ~~or reconstituted natural concentrated fruit or vegetable juices,~~
1123 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~
1124 ~~sweetened or unsweetened, seasoned with salt or spice, or~~
1125 ~~unseasoned; coffee, coffee substitutes, or cocoa; and tea,~~
1126 ~~unless it is sold in a liquid form.~~

1127 ~~1.3.~~ Bakery products sold by bakeries, pastry shops, or
1128 like establishments, if sold without eating utensils. Bakery
1129 products for purposes of this subsection include bread, rolls,
1130 buns, biscuits, bagels, croissants, pastries, doughnuts, danish,
1131 cakes, tortes, pies, tarts, muffins, bars, cookies, and
1132 tortillas that do not have eating facilities.

1133 2. Dietary supplements. The term "dietary supplements"
1134 means any product, other than tobacco, intended to supplement
1135 the diet that contains one or more of the following dietary
1136 ingredients: a vitamin; a mineral; an herb or other botanical;
1137 an amino acid; a dietary substance for use by humans to

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1138 supplement the diet by increasing the total dietary intake; or a
1139 concentrate, metabolite, constituent, extract, or combination of
1140 any ingredient described in this subparagraph which is intended
1141 for ingestion in tablet, capsule, powder, softgel, gelcap, or
1142 liquid form or, if not intended for ingestion in such a form, is
1143 not represented as conventional food and is not represented for
1144 use as a sole item of a meal or of the diet; and which is
1145 required to be labeled as a dietary supplement, identifiable by
1146 the "supplemental facts" box found on the label and as required
1147 pursuant to 21 C.F.R. s. 101.36.

1148 (c) The exemption provided by this subsection does not
1149 apply:

1150 ~~1. When the food products are sold as meals for~~
1151 ~~consumption on or off the premises of the dealer.~~

1152 ~~2. When the food products are furnished, prepared, or~~
1153 ~~served for consumption at tables, chairs, or counters or from~~
1154 ~~trays, glasses, dishes, or other tableware, whether provided by~~
1155 ~~the dealer or by a person with whom the dealer contracts to~~
1156 ~~furnish, prepare, or serve food products to others.~~

1157 ~~3. When the food products are ordinarily sold for~~
1158 ~~immediate consumption on the seller's premises or near a~~
1159 ~~location at which parking facilities are provided primarily for~~
1160 ~~the use of patrons in consuming the products purchased at the~~
1161 ~~location, even though such products are sold on a "take out" or~~
1162 ~~"to go" order and are actually packaged or wrapped and taken~~
1163 ~~from the premises of the dealer.~~

1164 ~~4. To sandwiches sold ready for immediate consumption on~~
1165 ~~or off the seller's premises.~~

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1166 ~~5. When the food products are sold ready for immediate~~
1167 ~~consumption within a place, the entrance to which is subject to~~
1168 ~~an admission charge.~~

1169 ~~1.6.~~ When the food and food ingredients ~~products~~ are sold
1170 as hot prepared food ~~products~~.

1171 ~~2.7.~~ To soft drinks, ~~which include, but are not limited~~
1172 ~~to, any nonalcoholic beverage, any preparation or beverage~~
1173 ~~commonly referred to as a "soft drink," or any noncarbonated~~
1174 ~~drink made from milk derivatives or tea, when sold in cans or~~
1175 ~~similar containers. The term "soft drinks" means nonalcoholic~~
1176 ~~beverages that contain natural or artificial sweeteners. Soft~~
1177 ~~drinks do not include beverages that contain milk or milk~~
1178 ~~products, soy, rice, or similar milk substitutes, or greater~~
1179 ~~than 50 percent of vegetable or fruit juice by volume.~~

1180 ~~8. To ice cream, frozen yogurt, and similar frozen dairy~~
1181 ~~or nondairy products in cones, small cups, or pints, popsicles,~~
1182 ~~frozen fruit bars, or other novelty items, whether or not sold~~
1183 ~~separately.~~

1184 ~~9. To food prepared, whether on or off the premises, and~~
1185 ~~sold for immediate consumption. This does not apply to food~~
1186 ~~prepared off the premises and sold in the original sealed~~
1187 ~~container, or the slicing of products into smaller portions.~~

1188 ~~3.10.~~ When the food and food ingredients ~~products~~ are sold
1189 through a vending machine, ~~pushcart, motor vehicle, or any other~~
1190 ~~form of vehicle.~~

1191 ~~4.11.~~ To candy and any similar product regarded as candy
1192 or confection, ~~based on its normal use, as indicated on the~~
1193 ~~label or advertising thereof. The term "candy" means a~~

1194 preparation of sugar, honey, or other natural or artificial
 1195 sweeteners in combination with chocolate, fruits, nuts, or other
 1196 ingredients or flavorings in the form of bars, drops, or pieces.
 1197 Candy does not include any preparation that contains flour and
 1198 requires no refrigeration.

1199 5. To tobacco.

1200 ~~12. To bakery products sold by bakeries, pastry shops, or~~
 1201 ~~like establishments that have eating facilities, except when~~
 1202 ~~sold for consumption off the seller's premises.~~

1203 ~~13. When food products are served, prepared, or sold in or~~
 1204 ~~by restaurants, lunch counters, cafeterias, hotels, taverns, or~~
 1205 ~~other like places of business.~~

1206 (d) As used in this subsection, the term:

1207 ~~1. "For consumption off the seller's premises" means that~~
 1208 ~~the food or drink is intended by the customer to be consumed at~~
 1209 ~~a place away from the dealer's premises.~~

1210 ~~2. "For consumption on the seller's premises" means that~~
 1211 ~~the food or drink sold may be immediately consumed on the~~
 1212 ~~premises where the dealer conducts his or her business. In~~
 1213 ~~determining whether an item of food is sold for immediate~~
 1214 ~~consumption, there shall be considered the customary consumption~~
 1215 ~~practices prevailing at the selling facility.~~

1216 ~~3. "Premises" shall be construed broadly, and means, but~~
 1217 ~~is not limited to, the lobby, aisle, or auditorium of a theater;~~
 1218 ~~the seating, aisle, or parking area of an arena, rink, or~~
 1219 ~~stadium; or the parking area of a drive-in or outdoor theater.~~
 1220 ~~The premises of a caterer with respect to catered meals or~~

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1221 ~~beverages shall be the place where such meals or beverages are~~
 1222 ~~served.~~

1223 1.4. "Hot Prepared food products" means food sold in a
 1224 heated state or heated by the seller; two or more food
 1225 ingredients mixed or combined by the seller for sale as a single
 1226 item; or food sold with eating utensils provided by the seller,
 1227 including plates, knives, forks, spoons, glasses, cups, napkins,
 1228 or straws. A plate does not include a container or packaging
 1229 used to transport the food. Prepared food does not include food
 1230 that is only cut, repackaged, or pasteurized by the seller and
 1231 eggs, fish, meat, poultry, and foods containing these raw animal
 1232 foods requiring cooking by the consumer as recommended by the
 1233 Food and Drug Administration in chapter 3, part 401.11 of its
 1234 food code so as to prevent food-borne illnesses. "Prepared food"
 1235 for purposes of this subsection includes sandwiches sold for
 1236 immediate consumption, and ~~those products, items, or components~~
 1237 ~~which have been prepared for sale in a heated condition and~~
 1238 ~~which are sold at any temperature that is higher than the air~~
 1239 ~~temperature of the room or place where they are sold. "Hot~~
 1240 ~~prepared food products," for the purposes of this subsection,~~
 1241 ~~includes~~ a combination of hot and cold food items or components
 1242 where a single price has been established for the combination
 1243 and the food products are sold in such combination, such as a
 1244 ~~hot~~ meal, a ~~hot~~ specialty dish or serving, or a ~~hot~~ sandwich or
 1245 ~~hot~~ pizza, or ice cream cones or sundaes, or food sold in an
 1246 unheated state by weight or volume as a single item, including
 1247 cold components or side items.

1248 (e)1. Food or drinks not exempt under paragraphs (a), (b),
 1249 (c), and (d) shall be exempt, notwithstanding those paragraphs,
 1250 when purchased with food coupons or Special Supplemental Food
 1251 Program for Women, Infants, and Children vouchers issued under
 1252 authority of federal law.

1253 2. This paragraph is effective only while federal law
 1254 prohibits a state's participation in the federal food coupon
 1255 program or Special Supplemental Food Program for Women, Infants,
 1256 and Children if there is an official determination that state or
 1257 local sales taxes are collected within that state on purchases
 1258 of food or drinks with such coupons.

1259 3. This paragraph shall not apply to any food or drinks on
 1260 which federal law shall permit sales taxes without penalty, such
 1261 as termination of the state's participation.

1262 (f) Dietary supplements that are sold as prepared food are
 1263 not exempt.

1264 (2) EXEMPTIONS; MEDICAL.--

1265 (a) There shall be exempt from the tax imposed by this
 1266 chapter:

1267 1. Any drug;

1268 2. Durable medical equipment, mobility enhancing
 1269 equipment, or prosthetic device ~~any medical products and~~
 1270 ~~supplies or medicine~~ dispensed according to an individual
 1271 prescription or prescriptions ~~written by a prescriber authorized~~
 1272 ~~by law to prescribe medicinal drugs;~~

1273 3. Hypodermic needles; hypodermic syringes;

1274 4. Chemical compounds and test kits used for the diagnosis
 1275 or treatment of ~~human~~ disease, illness, or injury intended for
 1276 one-time use;

1277 ~~5. Over-the-counter drugs and common household remedies~~
 1278 ~~recommended and generally sold for internal or external use in~~
 1279 ~~the cure, mitigation, treatment, or prevention of illness or~~
 1280 ~~disease in human beings, but not including grooming and hygiene~~
 1281 ~~products;~~

1282 6. Antiseptic adhesive strips, gauze, bandages, adhesive
 1283 tape;

1284 7. Hearing aids;

1285 8. Dental prosthesis; or

1286 9. Funerals.

1287
 1288 Funeral directors shall pay tax on all tangible personal
 1289 property used by them in their business ~~cosmetics or toilet~~
 1290 ~~articles, notwithstanding the presence of medicinal ingredients~~
 1291 ~~therein, according to a list prescribed and approved by the~~
 1292 ~~Department of Health, which list shall be certified to the~~
 1293 ~~Department of Revenue from time to time and included in the~~
 1294 ~~rules promulgated by the Department of Revenue. There shall also~~
 1295 ~~be exempt from the tax imposed by this chapter artificial eyes~~
 1296 ~~and limbs; orthopedic shoes; prescription eyeglasses and items~~
 1297 ~~incidental thereto or which become a part thereof; dentures;~~
 1298 ~~hearing aids; crutches; prosthetic and orthopedic appliances;~~
 1299 ~~and funerals.~~ In addition, any items intended for one-time use
 1300 which transfer essential optical characteristics to contact
 1301 lenses shall be exempt from the tax imposed by this chapter;

1302 however, this exemption shall apply only after \$100,000 of the
 1303 tax imposed by this chapter on such items has been paid in any
 1304 calendar year by a taxpayer who claims the exemption in such
 1305 year. ~~Funeral directors shall pay tax on all tangible personal~~
 1306 ~~property used by them in their business.~~

1307 (b) For the purposes of this subsection, the term:

1308 1. "Drug" means a compound, substance, or preparation, and
 1309 any component of a compound, substance, or preparation, other
 1310 than food and food ingredients, dietary supplements, and
 1311 alcoholic beverages, which is:

1312 a. Recognized in the official United States Pharmacopoeia,
 1313 official Homeopathic Pharmacopoeia of the United States, or
 1314 official National Formulary, or the supplement to any of them;

1315 b. Intended for use in the diagnosis, cure, mitigation,
 1316 treatment, or prevention of disease; or

1317 c. Intended to affect the structure or any function of the
 1318 body.

1319 2. "Durable medical equipment" means equipment, including
 1320 repair and replacement parts to such equipment, but the term
 1321 does not include mobility-enhancing equipment, which can
 1322 withstand repeated use, is primarily and customarily used to
 1323 serve a medical purpose, generally is not useful to a person in
 1324 the absence of illness or injury, and is not worn on or in the
 1325 body.

1326 3. "Mobility-enhancing equipment" means equipment,
 1327 including repair and replacement parts to such equipment, but
 1328 the term does not include durable medical equipment, which:

1329 a. Is primarily and customarily used to provide or
 1330 increase the ability to move from one place to another and which
 1331 is appropriate for use either in a home or a motor vehicle;

1332 b. Is not generally used by persons with normal mobility;
 1333 and

1334 c. Does not include any motor vehicle or any equipment on
 1335 a motor vehicle normally provided by a motor vehicle
 1336 manufacturer.

1337 4. "Prosthetic device" means a replacement, corrective, or
 1338 supportive device, including repair or replacement parts to such
 1339 equipment, other than a hearing aid or a dental prosthesis, that
 1340 is worn on or in the body to:

1341 a. Artificially replace a missing portion of the body;

1342 b. Prevent or correct physical deformity or malfunction;
 1343 or

1344 c. Support a weak or deformed portion of the body.

1345 5. "Grooming and hygiene products" are soaps and cleaning
 1346 solutions, shampoo, toothpaste, mouthwash, antiperspirants, and
 1347 suntan lotions and screens, regardless of whether the items meet
 1348 the definition of over-the-counter drugs.

1349 6. "Over-the-counter drug" means a drug the packaging for
 1350 which contains a label that identifies the product as a drug as
 1351 required by 21 C.F.R. s. 201.66. The over-the-counter drug label
 1352 includes a "drug facts" panel or a statement of the active
 1353 ingredients with a list of those ingredients contained in the
 1354 compound, substance, or preparation ~~"Prosthetic and orthopedic~~
 1355 ~~appliances" means any apparatus, instrument, device, or~~
 1356 ~~equipment used to replace or substitute for any missing part of~~

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1357 ~~the body, to alleviate the malfunction of any part of the body,~~
 1358 ~~or to assist any disabled person in leading a normal life by~~
 1359 ~~facilitating such person's mobility. Such apparatus, instrument,~~
 1360 ~~device, or equipment shall be exempted according to an~~
 1361 ~~individual prescription or prescriptions written by a physician~~
 1362 ~~licensed under chapter 458, chapter 459, chapter 460, chapter~~
 1363 ~~461, or chapter 466, or according to a list prescribed and~~
 1364 ~~approved by the Department of Health, which list shall be~~
 1365 ~~certified to the Department of Revenue from time to time and~~
 1366 ~~included in the rules promulgated by the Department of Revenue.~~

1367 ~~2. "Cosmetics" means articles intended to be rubbed,~~
 1368 ~~poured, sprinkled, or sprayed on, introduced into, or otherwise~~
 1369 ~~applied to the human body for cleansing, beautifying, promoting~~
 1370 ~~attractiveness, or altering the appearance and also means~~
 1371 ~~articles intended for use as a compound of any such articles,~~
 1372 ~~including, but not limited to, cold creams, suntan lotions,~~
 1373 ~~makeup, and body lotions.~~

1374 ~~3. "Toilet articles" means any article advertised or held~~
 1375 ~~out for sale for grooming purposes and those articles that are~~
 1376 ~~customarily used for grooming purposes, regardless of the name~~
 1377 ~~by which they may be known, including, but not limited to, soap,~~
 1378 ~~toothpaste, hair spray, shaving products, colognes, perfumes,~~
 1379 ~~shampoo, deodorant, and mouthwash.~~

1380 7.4. "Prescription" means an order, formula, or recipe
 1381 issued in any form of oral, written, electronic, or other means
 1382 of transmission by a duly licensed practitioner authorized by
 1383 chapter 458, chapter 459, chapter 460, chapter 461, or chapter
 1384 466. The term also includes an orally transmitted order by the

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1385 lawfully designated agent of such practitioner. The term also
1386 includes an order written or transmitted by a practitioner
1387 licensed to practice in a jurisdiction other than this state,
1388 but only if the pharmacist called upon to dispense such order
1389 determines, in the exercise of his or her professional judgment,
1390 that the order is valid and necessary for the treatment of a
1391 chronic or recurrent illness ~~includes any order for drugs or~~
1392 ~~medicinal supplies written or transmitted by any means of~~
1393 ~~communication by a duly licensed practitioner authorized by the~~
1394 ~~laws of the state to prescribe such drugs or medicinal supplies~~
1395 ~~and intended to be dispensed by a pharmacist. The term also~~
1396 ~~includes an orally transmitted order by the lawfully designated~~
1397 ~~agent of such practitioner. The term also includes an order~~
1398 ~~written or transmitted by a practitioner licensed to practice in~~
1399 ~~a jurisdiction other than this state, but only if the pharmacist~~
1400 ~~called upon to dispense such order determines, in the exercise~~
1401 ~~of his or her professional judgment, that the order is valid and~~
1402 ~~necessary for the treatment of a chronic or recurrent illness.~~
1403 ~~The term also includes a pharmacist's order for a product~~
1404 ~~selected from the formulary created pursuant to s. 465.186. A~~
1405 ~~prescription may be retained in written form, or the pharmacist~~
1406 ~~may cause it to be recorded in a data processing system,~~
1407 ~~provided that such order can be produced in printed form upon~~
1408 ~~lawful request.~~

1409 (c) Chlorine shall not be exempt from the tax imposed by
1410 this chapter when used for the treatment of water in swimming
1411 pools.

1412 ~~(d) Lithotripters are exempt.~~

1413 (d)~~(e)~~ Human organs are exempt.

1414 ~~(f) Sales of drugs to or by physicians, dentists,~~
 1415 ~~veterinarians, and hospitals in connection with medical~~
 1416 ~~treatment are exempt.~~

1417 ~~(g) Medical products and supplies used in the cure,~~
 1418 ~~mitigation, alleviation, prevention, or treatment of injury,~~
 1419 ~~disease, or incapacity which are temporarily or permanently~~
 1420 ~~incorporated into a patient or client by a practitioner of the~~
 1421 ~~healing arts licensed in the state are exempt.~~

1422 ~~(h) The purchase by a veterinarian of commonly recognized~~
 1423 ~~substances possessing curative or remedial properties which are~~
 1424 ~~ordered and dispensed as treatment for a diagnosed health~~
 1425 ~~disorder by or on the prescription of a duly licensed~~
 1426 ~~veterinarian, and which are applied to or consumed by animals~~
 1427 ~~for alleviation of pain or the cure or prevention of sickness,~~
 1428 ~~disease, or suffering are exempt. Also exempt are the purchase~~
 1429 ~~by a veterinarian of antiseptics, absorbent cotton, gauze for~~
 1430 ~~bandages, lotions, vitamins, and worm remedies.~~

1431 ~~(i) X-ray opaques, also known as opaque drugs and~~
 1432 ~~radiopaque, such as the various opaque dyes and barium sulphate,~~
 1433 ~~when used in connection with medical X rays for treatment of~~
 1434 ~~bodies of humans and animals, are exempt.~~

1435 (e)~~(j)~~ Parts, special attachments, special lettering, and
 1436 other like items that are added to or attached to tangible
 1437 personal property so that a handicapped person can use them are
 1438 exempt when such items are purchased by a person pursuant to an
 1439 individual prescription.

1440 (f)~~(k)~~ This subsection shall be strictly construed and
 1441 enforced.

1442 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any
 1443 entity by this chapter do not inure to any transaction that is
 1444 otherwise taxable under this chapter when payment is made by a
 1445 representative or employee of the entity by any means,
 1446 including, but not limited to, cash, check, or credit card, even
 1447 when that representative or employee is subsequently reimbursed
 1448 by the entity. In addition, exemptions provided to any entity by
 1449 this subsection do not inure to any transaction that is
 1450 otherwise taxable under this chapter unless the entity has
 1451 obtained a sales tax exemption certificate from the department
 1452 or the entity obtains or provides other documentation as
 1453 required by the department. Eligible purchases or leases made
 1454 with such a certificate must be in strict compliance with this
 1455 subsection and departmental rules, and any person who makes an
 1456 exempt purchase with a certificate that is not in strict
 1457 compliance with this subsection and the rules is liable for and
 1458 shall pay the tax. The department may adopt rules to administer
 1459 this subsection.

1460 (t) Boats temporarily docked in state.--

1461 1. Notwithstanding the provisions of chapter 328,
 1462 pertaining to the registration of vessels, a boat upon which the
 1463 state sales or use tax has not been paid is exempt from the use
 1464 tax under this chapter if it enters and remains in this state
 1465 for a period not to exceed a total of 20 days in any calendar
 1466 year calculated from the date of first dockage or slippage at a
 1467 facility, registered with the department, that rents dockage or

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1468 | slippage space in this state. If a boat brought into this state
1469 | for use under this paragraph is placed in a facility, registered
1470 | with the department, for repairs, alterations, refitting, or
1471 | modifications and such repairs, alterations, refitting, or
1472 | modifications are supported by written documentation, the 20-day
1473 | period shall be tolled during the time the boat is physically in
1474 | the care, custody, and control of the repair facility, including
1475 | the time spent on sea trials conducted by the facility. The 20-
1476 | day time period may be tolled only once within a calendar year
1477 | when a boat is placed for the first time that year in the
1478 | physical care, custody, and control of a registered repair
1479 | facility; however, the owner may request and the department may
1480 | grant an additional tolling of the 20-day period for purposes of
1481 | repairs that arise from a written guarantee given by the
1482 | registered repair facility, which guarantee covers only those
1483 | repairs or modifications made during the first tolled period.
1484 | Within 72 hours after the date upon which the registered repair
1485 | facility took possession of the boat, the facility must have in
1486 | its possession, on forms prescribed by the department, an
1487 | affidavit which states that the boat is under its care, custody,
1488 | and control and that the owner does not use the boat while in
1489 | the facility. Upon completion of the repairs, alterations,
1490 | refitting, or modifications, the registered repair facility
1491 | must, within 72 hours after the date of release, have in its
1492 | possession a copy of the release form which shows the date of
1493 | release and any other information the department requires. The
1494 | repair facility shall maintain a log that documents all
1495 | alterations, additions, repairs, and sea trials during the time

1496 the boat is under the care, custody, and control of the
 1497 facility. The affidavit shall be maintained by the registered
 1498 repair facility as part of its records for as long as required
 1499 by s. 213.35. When, within 6 months after the date of its
 1500 purchase, a boat is brought into this state under this
 1501 paragraph, the 6-month period provided in s. 212.05(1)(a)2. or
 1502 s. 212.06(9)~~(8)~~ shall be tolled.

1503 2. During the period of repairs, alterations, refitting,
 1504 or modifications and during the 20-day period referred to in
 1505 subparagraph 1., the boat may be listed for sale, contracted for
 1506 sale, or sold exclusively by a broker or dealer registered with
 1507 the department without incurring a use tax under this chapter;
 1508 however, the sales tax levied under this chapter applies to such
 1509 sale.

1510 3. The mere storage of a boat at a registered repair
 1511 facility does not qualify as a tax-exempt use in this state.

1512 4. As used in this paragraph, "registered repair facility"
 1513 means:

1514 a. A full-service facility that:

1515 (I) Is located on a navigable body of water;

1516 (II) Has haulout capability such as a dry dock, travel
 1517 lift, railway, or similar equipment to service craft under the
 1518 care, custody, and control of the facility;

1519 (III) Has adequate piers and storage facilities to provide
 1520 safe berthing of vessels in its care, custody, and control; and

1521 (IV) Has necessary shops and equipment to provide repair
 1522 or warranty work on vessels under the care, custody, and control
 1523 of the facility;

- 1524 b. A marina that:
- 1525 (I) Is located on a navigable body of water;
- 1526 (II) Has adequate piers and storage facilities to provide
- 1527 safe berthing of vessels in its care, custody, and control; and
- 1528 (III) Has necessary shops and equipment to provide repairs
- 1529 or warranty work on vessels; or

- 1530 c. A shoreside facility that:
- 1531 (I) Is located on a navigable body of water;
- 1532 (II) Has adequate piers and storage facilities to provide
- 1533 safe berthing of vessels in its care, custody, and control; and
- 1534 (III) Has necessary shops and equipment to provide repairs
- 1535 or warranty work.

1536 Section 8. Section 212.095, Florida Statutes, is amended

1537 to read:

1538 212.095 Refunds.--

1539 (1) No exemption granted on a refund basis pursuant to

1540 this chapter is authorized except as provided in this section.

1541 ~~(2)(a) No person may secure a refund under this chapter~~

1542 ~~unless such person is the holder of an unrevoked refund permit~~

1543 ~~issued by the department before the purchase for which a refund~~

1544 ~~is sought, which permit shall be numbered and issued annually.~~

1545 ~~(b) To procure a permit, a person must file with the~~

1546 ~~department an application, on forms furnished by the department,~~

1547 ~~stating that he or she is entitled to a refund according to the~~

1548 ~~provisions of this chapter and that he or she intends to file an~~

1549 ~~application for refund for the current calendar year, and must~~

1550 ~~furnish the department such other information as the department~~

1551 ~~requests.~~

1552 ~~(c) No person may in any event be allowed a refund unless~~
 1553 ~~he or she has filed the application provided for in paragraph~~
 1554 ~~(b) with the department. A permit shall be effective on the date~~
 1555 ~~issued by the department.~~

1556 ~~(d) If an applicant for a refund permit has violated any~~
 1557 ~~provision of this section or any regulation pursuant hereto, or~~
 1558 ~~has been convicted of bribery, theft, or false swearing within~~
 1559 ~~the period of 5 years preceding the application, or if the~~
 1560 ~~department has evidence of the financial irresponsibility of the~~
 1561 ~~applicant, the department may require the applicant to execute a~~
 1562 ~~corporate surety bond of \$1,000 to be approved by the~~
 1563 ~~department, conditioned upon the payment of all taxes,~~
 1564 ~~penalties, and fines for which such applicant may become liable~~
 1565 ~~under this chapter.~~

1566 (2)~~(3)~~(a) When a sale is made to a person who claims to be
 1567 entitled to a refund under this section, the seller shall make
 1568 out a sales invoice, which shall contain the following
 1569 information:

- 1570 1. The name and business address of the purchaser.
- 1571 2. A description of the item or services sold.
- 1572 3. The date on which the purchase was made.
- 1573 4. The price and amount of tax paid for the item or
 1574 services.
- 1575 5. The name and place of business of the seller at which
 1576 the sale was made.
- 1577 ~~6. The refund permit number of the purchaser.~~

1578 (b) The sales invoice shall be retained by the purchaser
 1579 for attachment to his or her application for a refund, as a part

1580 thereof. No refund will be allowed unless the seller has
 1581 executed such an invoice and unless proof of payment of the
 1582 taxes for which the refund is claimed is attached. The
 1583 department may refuse to grant a refund if the invoice is
 1584 incomplete and fails to contain the full information required in
 1585 this subsection.

1586 (c) No person may execute a sales invoice, as described in
 1587 paragraph (a), except a dealer duly registered pursuant to this
 1588 chapter, or an authorized agent thereof.

1589 (3)~~(4)~~(a) No refund may be authorized unless a sworn
 1590 application therefor containing the information required in this
 1591 section is filed with the department not later than 30 days
 1592 immediately following the quarter for which the refund is
 1593 claimed. When a claim is filed after such 30 days and a
 1594 justified excuse for late filing is presented to the department
 1595 and the last preceding claim was filed on time, such late filing
 1596 may be accepted through 60 days following the quarter. No refund
 1597 will be authorized unless the amount due is for \$5 or more in
 1598 any quarter and unless application is made upon forms prescribed
 1599 by the department.

1600 (b) Claims shall be filed and paid for each calendar
 1601 quarter. The department shall deduct a fee of \$2 for each claim,
 1602 which fee shall be deposited in the General Revenue Fund.

1603 (c) Refund application forms shall include at a minimum
 1604 the following information:

1605 1. The name and address of the person claiming the refund.

1606 ~~2. The refund permit number of such person.~~

1607 2.3. The location at which the items or services for which
 1608 a refund is claimed are used.

1609 3.4. A description of each such item or service and the
 1610 purpose for which such item or service was acquired.

1611 4.5. Copies of the sales invoices of items or services for
 1612 which a refund is being claimed.

1613 (4)~~(5)~~ The right to receive any refund under the
 1614 provisions of this section is not assignable, except to the
 1615 executor or administrator, or to the receiver, trustee in
 1616 bankruptcy, or assignee in an insolvency proceeding, of the
 1617 person entitled to the refund.

1618 (5)~~(6)~~(a) Each registered dealer shall, in accordance with
 1619 the requirements of the department, keep at his or her principal
 1620 place of business in this state or at the location where the
 1621 sale is made a complete record or duplicate sales tickets of all
 1622 items or services sold by the registered dealer for which a
 1623 refund provided in this section may be claimed, which records
 1624 shall contain the information required in paragraph (2)~~(3)~~(a).

1625 (b) Every person applying for ~~to whom~~ a refund ~~permit has~~
 1626 ~~been issued~~ under this section shall, in accordance with the
 1627 requirements of the department, keep at his or her residence or
 1628 principal place of business in this state a record of each
 1629 purchase for which a refund is claimed, including the
 1630 information required in paragraph (2)~~(3)~~(a).

1631 (c) The records required to be kept under this subsection
 1632 shall at all reasonable hours be subject to audit or inspection
 1633 by the department or by any person duly authorized by it. Such
 1634 records shall be preserved and may not be destroyed until 3

1635 | years after the date the item to which they relate was sold or
 1636 | purchased.

1637 | (6)~~(7)~~ Agents of the department are authorized to go upon
 1638 | the premises of any refund permitholder, or duly authorized
 1639 | agent thereof, to make an inspection to ascertain any matter
 1640 | connected with the operation of this section or the enforcement
 1641 | hereof. However, no agent may enter the dwelling of any person
 1642 | without the consent of the occupant or authority from a court of
 1643 | competent jurisdiction.

1644 | (7)~~(8)~~ If any taxes are refunded erroneously, the
 1645 | department shall advise the payee by registered mail of the
 1646 | erroneous refund. If the payee fails to reimburse the state
 1647 | within 15 days after the receipt of the letter, an action may be
 1648 | instituted by the department against such payee in the circuit
 1649 | court, and the department shall recover from the payee the
 1650 | amount of the erroneous refund plus a penalty of 25 percent.

1651 | (8)~~(9)~~ No person shall:

1652 | (a) Knowingly make a false or fraudulent statement ~~in an~~
 1653 | ~~application for a refund permit or~~ in an application for a
 1654 | refund of any taxes under this section;

1655 | (b) Fraudulently obtain a refund of such taxes; or

1656 | (c) Knowingly aid or assist in making any such false or
 1657 | fraudulent statement or claim.

1658 | ~~(10) The refund permit of any person who violates any~~
 1659 | ~~provision of this section shall be revoked by the department and~~
 1660 | ~~may not be reissued until 2 years have elapsed from the date of~~
 1661 | ~~such revocation. The refund permit of any person who violates~~
 1662 | ~~any other provision of this chapter may be suspended by the~~

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1663 ~~department for any period, in its discretion, not exceeding 6~~
 1664 ~~months.~~

1665 (9)~~(11)~~ Refund ~~permits and refund~~ application forms shall
 1666 include instructions for dealers and purchasers as to the
 1667 relevant requirements of this section.

1668 Section 9. Section 212.094, Florida Statutes, is created
 1669 to read:

1670 212.094 Purchaser requests for refunds from dealers.--

1671 (1) If a purchaser seeks a refund of or credit from a
 1672 dealer for a tax collected under this chapter by that dealer,
 1673 the purchaser must submit a written request for the refund or
 1674 credit to the dealer in accordance with this section. The
 1675 request must contain all the information necessary for the
 1676 dealer to determine the validity of the purchaser's request.

1677 (2) The purchaser may not take any other action against
 1678 the dealer with respect to the requested refund or credit until
 1679 the dealer has had 60 days following receipt of a completed
 1680 request in which to respond.

1681 (3) Nothing in this section is intended to change the law
 1682 regarding standing to claim a refund.

1683 Section 10. Subsection (3) of section 212.17, Florida
 1684 Statutes, is amended to read:

1685 212.17 Credits for returned goods, rentals, or admissions;
 1686 goods acquired for dealer's own use and subsequently resold;
 1687 additional powers of department.--

1688 (3) A dealer who has paid the tax imposed by this chapter
 1689 on tangible personal property or services may take a credit or
 1690 obtain a refund for any tax paid by the dealer on the unpaid

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1691 balance due on worthless accounts within 12 months following the
1692 month in which the bad debt has been charged off for federal
1693 income tax purposes. A dealer who has paid the tax imposed by
1694 this chapter on tangible personal property or services and who
1695 is not required to file federal income tax returns may take a
1696 credit or obtain a refund for any tax paid by the dealer on the
1697 unpaid balance due on worthless accounts within 12 months
1698 following the month in which the bad debt is written off as
1699 uncollectible in the dealer's books and records and would be
1700 eligible for a bad debt deduction for federal income tax
1701 purposes if the dealer were required to file a federal income
1702 tax return.

1703 (a) A dealer that is taking a credit or obtaining a refund
1704 on worthless accounts shall base the bad debt recovery
1705 calculation in accordance with 26 U.S.C. s. 166.

1706 (b) Notwithstanding paragraph (a), the amount calculated
1707 pursuant to 26 U.S.C. s. 166 shall be adjusted to exclude
1708 financing charges or interest; sales or use taxes charged on the
1709 purchase price; uncollectible amounts on property that remain in
1710 the possession of the seller until the full purchase price is
1711 paid; expenses incurred in attempting to collect any debt; and
1712 repossessed property.

1713 (c) When the amount of bad debt exceeds the amount of
1714 taxable sales for the period during which the bad debt is
1715 written off, a refund claim may be filed in accordance with the
1716 timing provisions of s. 215.26(2), except that the statute of
1717 limitations for filing the refund claim shall be measured from

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1718 the due date of the return on which the bad debt could first be
1719 claimed.

1720 (d) If any accounts so charged off for which a credit or
1721 refund has been obtained are thereafter in whole or in part paid
1722 to the dealer, the amount so paid shall be included in the first
1723 return filed after such collection and the tax paid accordingly.

1724 (e) Where filing responsibilities have been assumed by a
1725 certified service provider, the certified service provider shall
1726 claim, on behalf of the seller, any bad debt allowance provided
1727 by this section. The certified service provider must credit or
1728 refund to the seller the full amount of any bad debt allowance
1729 or refund received.

1730 (f) For the purposes of reporting a payment received on a
1731 previously claimed bad debt, any payments made on a debt or
1732 account are applied first proportionally to the taxable price of
1733 the property or service and the sales tax thereon, and secondly
1734 to interest, service charges, and any other charges.

1735 (g) In situations in which the books and records of the
1736 party claiming the bad debt allowance support an allocation of
1737 the bad debts among states that are members of the Streamlined
1738 Sales and Use Tax Agreement, the allocation is permitted among
1739 those states.

1740 Section 11. Section 213.052, Florida Statutes, is created
1741 to read:

1742 213.052 Notice of state rate changes.--

1743 (1) A sales or use tax rate change imposed under chapter
1744 212 is effective on January 1, April 1, July 1, or October 1.
1745 The Department of Revenue shall provide notice of such rate

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1746 change to all affected sellers 90 days before the effective date
 1747 of the rate change.

1748 (2) Failure of a seller to receive notice does not relieve
 1749 the seller of its obligation to collect sales or use tax.

1750 Section 12. Section 213.0521, Florida Statutes, is created
 1751 to read:

1752 213.0521 Effective date of state rate changes.--The
 1753 effective date for services covering a period starting before
 1754 and ending after the statutory effective date shall be as
 1755 follows:

1756 (1) For a rate increase, the new rate shall apply to the
 1757 first billing period starting on or after the effective date.

1758 (2) For a rate decrease, the new rate shall apply to bills
 1759 rendered on or after the effective date.

1760 Section 13. Subsection (11) is added to section 213.21,
 1761 Florida Statutes, to read:

1762 213.21 Informal conferences; compromises.--

1763 (11) Amnesty shall be provided for uncollected or unpaid
 1764 sales or use tax to a seller who registers to pay or to collect
 1765 and remit applicable sales or use tax in accordance with the
 1766 terms of the Streamlined Sales and Use Tax Agreement authorized
 1767 under s. 213.256, if the seller was not registered with the
 1768 Department of Revenue in the 12-month period preceding the
 1769 effective date of participation in the agreement by this state.

1770 (a) The amnesty precludes assessment for uncollected or
 1771 unpaid sales or use tax together with penalty or interest for
 1772 sales made during the period the seller was not registered with
 1773 the Department of Revenue, if registration occurs within 12

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1774 months after the effective date of this state's participation in
1775 the agreement.

1776 (b) The amnesty is not available to a seller with respect
1777 to any matter or matters for which the seller received notice of
1778 the commencement of an audit and which audit is not yet finally
1779 resolved, including any related administrative and judicial
1780 processes.

1781 (c) The amnesty is not available for sales or use taxes
1782 already paid or remitted to the state or to taxes collected by
1783 the seller.

1784 (d) The amnesty is fully effective, absent the seller's
1785 fraud or intentional misrepresentation of a material fact, as
1786 long as the seller continues registration and continues payment
1787 or collection and remittance of applicable sales or use taxes
1788 for at least 36 months.

1789 (e) The amnesty is applicable only to sales or use taxes
1790 due from a seller in its capacity as a seller and not to sales
1791 or use taxes due from a seller in its capacity as a buyer.

1792 Section 14. Subsections (1) and (7) of section 213.256,
1793 Florida Statutes, are amended, present subsections (8), (9), and
1794 (10) of said section are renumbered as subsections (11), (12),
1795 and (13), respectively, and new subsections (8), (9), (10), and
1796 (14) are added to said section, to read:

1797 213.256 Simplified Sales and Use Tax Administration Act.--

1798 (1) As used in this section and s. 213.2567, the term:

1799 (a) "Agent" means a person appointed by a seller to
1800 represent the seller before the member states.

1801 (b) "Agreement" means the Streamlined Sales and Use Tax
 1802 Agreement as amended and adopted on November 12, 2002 ~~January~~
 1803 ~~27, 2001~~, by the Executive Committee of the National Conference
 1804 of State Legislatures.

1805 (c) "Certified automated system" means software certified
 1806 jointly by the states that are signatories to the agreement to
 1807 calculate the tax imposed by each jurisdiction on a transaction,
 1808 determine the amount of tax to remit to the appropriate state,
 1809 and maintain a record of the transaction.

1810 (d) "Certified service provider" means an agent certified
 1811 under jointly by the states that are signatories to the
 1812 agreement to perform all of the seller's sales tax functions
 1813 other than the seller's obligation to remit tax on its own
 1814 purchases.

1815 ~~(e)~~(a) "Department" means the Department of Revenue.

1816 (f) "Model 1 seller" means a seller that has selected a
 1817 certified service provider as its agent to perform all the
 1818 seller's sales and use tax functions other than the seller's
 1819 obligation to remit tax on its own purchases.

1820 (g) "Model 2 seller" means a seller that has selected a
 1821 certified automated system to perform part of its sales and use
 1822 tax functions, but retains responsibility for remitting the tax.

1823 (h) "Model 3 seller" means a seller that has sales in at
 1824 least five member states, has total annual sales revenue of at
 1825 least \$500 million, has a proprietary system that calculates the
 1826 amount of tax due each jurisdiction, and has entered into a
 1827 performance agreement with the member states which establishes a
 1828 tax performance standard for the seller. As used in this

1829 subsection, a seller includes an affiliated group of sellers
 1830 using the same proprietary system.

1831 (i)~~(e)~~ "Person" means an individual, trust, estate,
 1832 fiduciary, partnership, limited liability company, limited
 1833 liability partnership, corporation, or any other legal entity.

1834 (j) "Registered under this agreement" means registration
 1835 by a seller with the member states under the central
 1836 registration system.

1837 (k)~~(f)~~ "Sales tax" means the tax levied under chapter 212.

1838 (l)~~(g)~~ "Seller" means any person making sales, leases, or
 1839 rentals of personal property or services.

1840 (m)~~(h)~~ "State" means any state of the United States and
 1841 the District of Columbia.

1842 (n)~~(i)~~ "Use tax" means the tax levied under chapter 212.

1843 (7)(a) The agreement authorized by this act binds and
 1844 inures only to the benefit of this state and the other member
 1845 states. No person, other than a member state, is an intended
 1846 beneficiary of the agreement. Any benefit to a person other than
 1847 a state is established by the laws of this state and of other
 1848 member states and not by the terms of the agreement.

1849 (b) Consistent with paragraph (a), no person has any cause
 1850 of action or defense under the agreement or by virtue of this
 1851 state's approval of the agreement. No person may challenge, in
 1852 any action brought under any provision of law, any action or
 1853 inaction by any department, agency, or other instrumentality of
 1854 this state, or of any political subdivision of this state, on
 1855 the ground that the action or inaction is inconsistent with the
 1856 agreement.

1857 (c) No law of this state, or the application thereof, may
 1858 be declared invalid as to any person or circumstance on the
 1859 ground that the provision or application is inconsistent with
 1860 the agreement.

1861 (d) The determinations pertaining to the agreement
 1862 authorized by this act which are made by the member states are
 1863 final when rendered and are not subject to any protest, appeal,
 1864 or review.

1865 (8) Authority to administer the agreement authorized under
 1866 this act shall rest with the governing board comprised of
 1867 representatives of each member state. Each member state may
 1868 appoint up to four representatives to the governing board. This
 1869 state shall be represented by three delegates, one appointed by
 1870 the President of the Senate, one appointed by the Speaker of the
 1871 House of Representatives, and the executive director of the
 1872 department or his or her designee.

1873 (9) With respect to each member state, the agreement
 1874 authorized by this act shall continue in full force and effect
 1875 until a member state withdraws its membership or is expelled. A
 1876 member state's withdrawal or expulsion is not effective until
 1877 the first day of a calendar quarter after a minimum of 60 days'
 1878 notice. A member state shall submit notice of its intent to
 1879 withdraw from the agreement to the governing board and the chief
 1880 executive of each member state's tax agency. The member state
 1881 shall provide public notice of its intent to withdraw and post
 1882 its notice of intent to withdraw from the agreement to the
 1883 governing board and the chief executive of each member state's
 1884 tax agency. The member state shall provide public notice of its

1885 intent to withdraw and post its notice of intent to withdraw on
1886 its website. The withdrawal by or expulsion of a state does not
1887 affect the validity of the agreement among other member states.
1888 A state that withdraws or is expelled from the agreement remains
1889 liable for its share of any financial or contractual obligations
1890 that were incurred by the governing board before the effective
1891 date of that state's withdrawal or expulsion. The appropriate
1892 share of any financial or contractual obligation shall be
1893 determined by the state and the governing board in good faith
1894 based on the relative benefits received and burdens incurred by
1895 the parties.

1896 (10) A member state that is found to be out of compliance
1897 with the agreement authorized by this act may be imposed with
1898 sanctions, which include expulsion or other penalties as
1899 determined by the governing board.

1900 (14) Each member state shall annually recertify that such
1901 state is in compliance with the agreement authorized under this
1902 act. Each member state shall make a recertification to the
1903 governing board on or before August 1 of each year after the
1904 year of the state's entry. In its annual recertification, the
1905 state shall include any changes in its statutes, rules or
1906 regulations, or other authorities that could affect its
1907 compliance with the terms of the agreement. The recertification
1908 shall be signed by the executive director of the department. A
1909 member state that cannot recertify its compliance with the
1910 agreement shall submit a statement of noncompliance to the
1911 governing board. The statement of noncompliance shall include
1912 any action or decision that takes such state out of compliance

1913 with the agreement and the steps it will take to return to
 1914 compliance. Each member state shall post its annual
 1915 recertification or statement of noncompliance on that state's
 1916 website.

1917 Section 15. Section 213.2567, Florida Statutes, is created
 1918 to read:

1919 213.2567 Simplified sales and use tax registration,
 1920 certification, liability, audit.--

1921 (1) A seller that registers pursuant to the agreement
 1922 agrees to collect and remit sales and use taxes for all taxable
 1923 sales into the member states, including member states joining
 1924 after the seller's registration. Withdrawal or revocation of a
 1925 member state shall not relieve a seller of its responsibility to
 1926 remit taxes previously or subsequently collected on behalf of
 1927 the state.

1928 (a) When registering, the seller may select a model 1,
 1929 model 2, or model 3 method of remittance or other method allowed
 1930 by state law to remit the taxes collected.

1931 (b) A seller may be registered by an agent. Such
 1932 appointment shall be in writing and submitted to a member state.

1933 (2)(a) A certified service provider is the agent of a
 1934 model 1 seller with whom the certified service provider has
 1935 contracted for the collection and remittance of sales and use
 1936 taxes. As the model 1 seller's agent, the certified service
 1937 provider is liable for sales and use tax due each member state
 1938 on all sales transactions it processes for the model 1 seller
 1939 except as set out in paragraph (b).

1940 (b) A model 1 seller is not liable to the state for sales
1941 or use tax due on transactions processed by the certified
1942 service provider unless the model 1 seller has misrepresented
1943 the type of items it sells or has committed fraud. In the
1944 absence of probable cause to believe that the model 1 seller has
1945 committed fraud or made a material misrepresentation, the model
1946 1 seller is not subject to audit on the transactions processed
1947 by the certified service provider. A model 1 seller is subject
1948 to audit for transactions that have not been processed by the
1949 certified service provider. The member states acting jointly may
1950 perform a system check of the model 1 seller and review the
1951 model 1 seller's procedures to determine if the certified
1952 service provider's system is functioning properly and to
1953 determine the extent to which the model 1 seller's transactions
1954 are being processed by the certified service provider.

1955 (3) A person that provides a certified automated system is
1956 responsible for the proper functioning of that system and is
1957 liable to the state for underpayments of tax attributable to
1958 errors in the functioning of the certified automated system. A
1959 model 2 seller that uses a certified automated system remains
1960 responsible and is liable to the state for reporting and
1961 remitting tax.

1962 (4) A model 3 seller is liable for the failure of the
1963 proprietary system to meet the performance standard.

1964 (5) The governing board may certify a person as a
1965 certified service provider if the person meets all of the
1966 following requirements:

1967 (a) The person uses a certified automated system.

1968 (b) The person integrates its certified automated system
 1969 with the system of a seller for whom the person collects tax so
 1970 that the tax due on a sale is determined at the time of the
 1971 sale.

1972 (c) The person agrees to remit the taxes it collects at
 1973 the time and in the manner specified by the member states.

1974 (d) The person agrees to file returns on behalf of the
 1975 sellers for whom it collects tax.

1976 (e) The person agrees to protect the privacy of tax
 1977 information it obtains in accordance with s. 213.053.

1978 (f) The person enters into a contract with the member
 1979 states and agrees to comply with the terms of the contract.

1980 (6) The governing board may certify a software program as
 1981 a certified automated system if the governing board determines
 1982 that the program meets all of the following requirements:

1983 (a) The program determines the applicable state and local
 1984 sales and use tax rate for a transaction in accordance with s.
 1985 212.06(3) and (4).

1986 (b) The program determines whether or not an item is
 1987 exempt from tax.

1988 (c) The program determines the amount of tax to be
 1989 remitted for each taxpayer for a reporting period.

1990 (d) The program can generate reports and returns as
 1991 required by the governing board.

1992 (e) The program meets any other requirement set by the
 1993 governing board.

1994 (7) The governing board may establish one or more sales
 1995 tax performance standards for model 3 sellers that meet the

1996 eligibility criteria set by the governing board and that
 1997 developed a proprietary system to determine the amount of sales
 1998 and use tax due on transactions.

1999 (8) Disclosure of information necessary under this section
 2000 must be pursuant to a written agreement between the executive
 2001 director of the department or his or her designee and the
 2002 certified service provider. The certified service provider is
 2003 bound by the same requirements of confidentiality as the
 2004 department. Breach of confidentiality is a misdemeanor of the
 2005 first degree, punishable as provided in s. 775.082 or s.
 2006 775.083.

2007 Section 16. Paragraph (c) of subsection (2) and paragraph
 2008 (c) of subsection (3) of section 212.055, Florida Statutes, are
 2009 amended to read:

2010 212.055 Discretionary sales surtaxes; legislative intent;
 2011 authorization and use of proceeds.--It is the legislative intent
 2012 that any authorization for imposition of a discretionary sales
 2013 surtax shall be published in the Florida Statutes as a
 2014 subsection of this section, irrespective of the duration of the
 2015 levy. Each enactment shall specify the types of counties
 2016 authorized to levy; the rate or rates which may be imposed; the
 2017 maximum length of time the surtax may be imposed, if any; the
 2018 procedure which must be followed to secure voter approval, if
 2019 required; the purpose for which the proceeds may be expended;
 2020 and such other requirements as the Legislature may provide.
 2021 Taxable transactions and administrative procedures shall be as
 2022 provided in s. 212.054.

2023 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

2024 (c) Pursuant to s. 212.054~~(5)~~(4), the proceeds of the
 2025 surtax levied under this subsection shall be distributed to the
 2026 county and the municipalities within such county in which the
 2027 surtax was collected, according to:

2028 1. An interlocal agreement between the county governing
 2029 authority and the governing bodies of the municipalities
 2030 representing a majority of the county's municipal population,
 2031 which agreement may include a school district with the consent
 2032 of the county governing authority and the governing bodies of
 2033 the municipalities representing a majority of the county's
 2034 municipal population; or

2035 2. If there is no interlocal agreement, according to the
 2036 formula provided in s. 218.62.

2037
 2038 Any change in the distribution formula must take effect on the
 2039 first day of any month that begins at least 60 days after
 2040 written notification of that change has been made to the
 2041 department.

2042 (3) SMALL COUNTY SURTAX.--

2043 (c) Pursuant to s. 212.054~~(5)~~(4), the proceeds of the
 2044 surtax levied under this subsection shall be distributed to the
 2045 county and the municipalities within the county in which the
 2046 surtax was collected, according to:

2047 1. An interlocal agreement between the county governing
 2048 authority and the governing bodies of the municipalities
 2049 representing a majority of the county's municipal population,
 2050 which agreement may include a school district with the consent
 2051 of the county governing authority and the governing bodies of

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2052 the municipalities representing a majority of the county's
 2053 municipal population; or

2054 2. If there is no interlocal agreement, according to the
 2055 formula provided in s. 218.62.

2056
 2057 Any change in the distribution formula shall take effect on the
 2058 first day of any month that begins at least 60 days after
 2059 written notification of that change has been made to the
 2060 department.

2061 Section 17. Paragraph (c) of subsection (1) of section
 2062 212.07, Florida Statutes, is amended to read:

2063 212.07 Sales, storage, use tax; tax added to purchase
 2064 price; dealer not to absorb; liability of purchasers who cannot
 2065 prove payment of the tax; penalties; general exemptions.--

2066 (1)

2067 (c) Unless the purchaser of tangible personal property
 2068 that is incorporated into tangible personal property
 2069 manufactured, produced, compounded, processed, or fabricated for
 2070 one's own use and subject to the tax imposed under s.

2071 212.06(1)(b) or is purchased for export under s.

2072 212.06~~(6)~~~~(5)~~(a)1. extends a certificate in compliance with the
 2073 rules of the department, the dealer shall himself or herself be
 2074 liable for and pay the tax.

2075 Section 18. Subsection (1) of section 212.15, Florida
 2076 Statutes, is amended to read:

2077 212.15 Taxes declared state funds; penalties for failure
 2078 to remit taxes; due and delinquent dates; judicial review.--

2079 (1) The taxes imposed by this chapter shall, except as
 2080 provided in s. 212.06~~(6)~~~~(5)~~(a)2.e., become state funds at the
 2081 moment of collection and shall for each month be due to the
 2082 department on the first day of the succeeding month and be
 2083 delinquent on the 21st day of such month. All returns postmarked
 2084 after the 20th day of such month are delinquent.

2085 Section 19. Subsection (6) of section 212.183, Florida
 2086 Statutes, is amended to read:

2087 212.183 Rules for self-accrual of sales tax.--The
 2088 Department of Revenue is authorized to provide by rule for self-
 2089 accrual of the sales tax under one or more of the following
 2090 circumstances:

2091 (6) When the purchaser makes purchases of promotional
 2092 materials as defined in s. 212.06~~(12)~~~~(11)~~ and at the time of
 2093 purchase, the purchaser does not know whether the materials will
 2094 be exported outside this state.

2095 Section 20. It is the intent of the Legislature to further
 2096 amend chapter 212, Florida Statutes, to make the changes
 2097 necessary to be in compliance with the provisions of the
 2098 Streamlined Sales and Use Tax Agreement effective as of December
 2099 31, 2005, and to address the prohibition on multiple state rates
 2100 in a revenue-neutral manner.

2101 Section 21. The executive director of the Department of
 2102 Revenue is authorized, and all conditions are deemed met, to
 2103 adopt emergency rules, under ss. 120.536(1) and 120.54(4),
 2104 Florida Statutes, to implement this act. Notwithstanding any
 2105 other provision of law, such emergency rules shall remain
 2106 effective for 6 months after the date of adoption and may be

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2107 renewed during the pendency of procedures to adopt rules
2108 addressing the subject of the emergency rules.

2109 Section 22. Beginning with the 2005-2006 fiscal year, the
2110 Revenue Estimating Conference shall determine each year the net
2111 increase in sales and use taxes received by the state as a
2112 result of its participation in the Streamlined Sales and Use Tax
2113 Agreement. The net increase determined by the Revenue Estimating
2114 Conference shall be transferred to the Working Capital Fund. The
2115 amounts transferred to the Working Capital Fund pursuant to this
2116 section may be used by the Legislature to make appropriations
2117 only in a year where the growth in the General Revenue Fund
2118 receipts over the prior year is less than 2 percent. At such
2119 time as the Revenue Estimating Conference determines that the
2120 annual net increase in recurring revenue exceeds an amount equal
2121 to the tax revenues that would be received by the state from a
2122 0.25 percent sales and use tax rate, the Legislature shall
2123 reduce the then existing sales tax rate by 0.25 percent and the
2124 Legislature may appropriate the recurring revenues. Subsequent
2125 to such reduction, additional revenue increases attributable to
2126 the Streamlined Sales and Use Tax shall be transferred to the
2127 Working Capital Fund, to be appropriated as provided in this
2128 section, until such time as the Revenue Estimating Conference
2129 determines that the annual net increase in recurring revenue
2130 again exceeds an amount equal to the tax revenues that would be
2131 received by the state from a 0.25 percent sales and use tax
2132 rate, at which time the Legislature shall again reduce the sale
2133 and use tax rate by 0.25 percent. Such reductions shall continue
2134 until the earlier of the sales and use tax rate is reduced by 1

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2135 | percent or until 3 years after the first 0.25 percent reduction.

2136 | Section 23. This act shall take effect January 1, 2006.